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HOUSE OF REPRESENTATIVES, UNITED STATES

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HEARINGS
BEFORE THE COMMITTEE ON AGRICULTURE

DURING THE

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SECOND SESSION OF THE SIXTY-FIRST CONGRESS

ON

BILLS RELATING TO
OLEOMARGARINE

SIXTY-FIRST CONGRESS, SECOND SESSION

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OLEOMARGARINE.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Wednesday, April 20, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. In accordance with an order made at the last meeting of the committee, the committee is in session this morning for the purpose of considering what are known generally as the oleomargarine bills—H. R. 13842, introduced by Mr. Burleson; H. R. 20582, by Mr. McHenry; H. R. 20986, introduced by Mr. Bartholdt; H. R. 24008, introduced by Mr. Goebel; H. R. 22942, introduced by Mr. Gallagher; H. R. 21674, introduced by Mr. Burleson; and H. R. 24651, introduced by Mr. Lever.

Mr. HANNA. Are these bills all upon the same subject?

The CHAIRMAN. They are all upon the same general subject. One is upon the manufacture and sale of butter; but with that exception I think all of them either amend the existing law on oleomargarine or propose an addition to it. The understanding is that it will probably require several days to conclude these hearings, and as the committee hardly felt able to give its entire time to it through that period it was decided, based upon consultation with those most interested in the subject, to have two days of hearing this week, two days next week, and two days in the week following, and to continue in that way so long as it may seem to be necessary. To-day we are to give the time to the proponents of the bill, and I have asked Representative Burleson, who is the author of one of the bills, and at whose particular request this hearing was arranged, to make a statement in regard to the measure and to indicate to the committee the order in which he would like to have other gentlemen heard.

STATEMENT OF HON. ALBERT S. BURLESON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS.

Mr. BURLESON. Mr. Chairman and gentlemen of the committee, it is my purpose to occupy only a short time in making a preliminary statement. I desire to state to the committee, first, the reasons prompting me to the introduction of the bills I have introduced repealing the tax on colored oleomargarine; but, preliminary to that statement, I want to make a few observations about the subject-matter of former legislation relating to oleomargarine.

From the very moment that oleomargarine entered the field as a food product in competition with butter a systematic, persistent effort was made to arouse the hostility of the consuming public against it. I do not hesitate to say that never in the history of the

world has a food product been so persistently and outrageously misrepresented as oleomargarine. Very shortly after the methods of its manufacture were discovered it was charged by those engaged in the manufacture of butter that it was an unclean food product, that it was made from the refuse matter of the packing houses, that it was unwholesome, that it was not nutritious; in fact, they asserted that it was only a perverted taste that would accept it as palatable. Of course these charges had to be met, and in order to meet them the services of the greatest chemists in the world were brought into requisition. Oleomargarine was analyzed time and time again and each time declared a valuable food product. Still those who were opposed to its manufacture fiercely insisted upon the proposition that it was unclean and unwholesome, and this contention was persisted in until such great chemists as the professors of chemistry in Columbia University, in Harvard University, in Johns Hopkins University, over their signatures pronounced it not only clean, but wholesome, nutritious, and palatable. This still did not satisfy the antagonists or enemies of oleomargarine, and finally its defenders brought into the service or in support of this food product the greatest of our chemists, the man who adorns the position of Chief of the Bureau of Chemistry for the National Government, Dr. Harvey W. Wiley, who, in his usual careful and methodical way, analyzed this product and pronounced upon it, confirming the verdict that had been returned by the other eminent chemists who had analyzed it prior thereto. This still did not satisfy those who were opposed to oleomargarine, and a suit was instituted in the State of New York, where the fact was brought directly in issue whether it was a clean, wholesome, nutritious, and palatable product. This suit finally found its way to the Supreme Court of the United States, and there a judicial determination of the fact was had that it was wholesome, that it was nutritious, that it was palatable.

In the meantime the people, always ready to accept a good food product, were buying oleomargarine.

Mr. STANLEY. May I interrupt you there?

Mr. BURLERSON. Certainly.

Mr. STANLEY. If there was any question about oleomargarine being palatable or not palatable, this legislation would be unnecessary, would it not? If it did not taste very much like butter there would not be any necessity for the inhibition?

Mr. BURLERSON. I am not attempting to disprove the charges that are made against it, I will say to the gentleman from Kentucky; I am briefly going over the accusations that were formerly made against oleomargarine.

Mr. STANLEY. I asked that for my own information. My understanding is that manufactured oleomargarine and butter taste so much alike that it takes an expert to tell the difference.

Mr. BURLERSON. Yes; that was one of the contentions of the men who were opposing oleomargarine—that it was so much like butter that people could be easily deceived. During this period of years when this contest was raging its enemies called it “axle grease.” They spoke of it as “table lard.” Their favorite term was to call it “bull butter.” But still the manufacture of the product increased, the output increased, and when they were driven from the position they first occupied, that it was unclean and unwholesome, they adopted another

means of attack, they assaulted it from another direction. Those who did not desire that this food product should be brought into competition with butter immediately inaugurated another propaganda, alleging that it was a fraudulent product; that it sailed under hypocritical colors; that it was being offered to an unsuspecting and gullible public as butter when it was not butter; that it was a counterfeit butter and that gross frauds were practiced in its sale. Coupled with these charges against it was the more dangerous charge that it was the product of a trust being brought into competition with the product of the farmer, and the farmer was pushed to the front as the man whose interest was menaced by this fraudulent product; and this was the influencing cause, this was the great propelling, controlling thought which was brought behind the movement in 1902 which resulted in the enactment of the Grout bill.

Mr. BEALL. Before you leave that will you indicate to the committee whether or not there had been any federal legislation prior to 1902?

Mr. BURLESON. There was.

Mr. BEALL. Providing for the regulation or inspection, and so forth, of oleomargarine?

Mr. BURLESON. There was legislation prior to the Grout law. There was a tax of 2 cents a pound levied upon colored and uncolored oleomargarine prior to 1902, and inspection provided for, and it was charged by the advocates of the dairy unions and the creameries of this country that frauds were possible under that law, and that there was a necessity for additional legislation in order to prevent these frauds; and I will not weary the committee by going through the history of the legislation on this subject, but I have here a statement prepared by a most careful and accurate lawyer, which I will embody in my remarks, giving all the legislation on this subject prior to 1902, showing the extent to which frauds had been practiced prior to that year, and showing the extent to which frauds have been practiced since the enactment of the present legislation upon the subject.

I want now to direct the attention of this committee to another matter. I know Congressmen. I am one myself. Every Congressman is anxious to do what his constituents want him to do. The frequent talk about corrupting Congressmen—and I speak from an observation of eleven years here—in my opinion is sheer rot and nonsense. Of course, out of a body of 396 men I do not doubt but what a few crooks could be found, but the talk about bringing undue influence to bear on Congressmen nine times out of ten is without foundation. But when you talk in such way as to arouse an apprehension in the mind of a Congressman that there is danger that trouble may originate back home, then you begin to fasten his attention. I think I know Congressmen. In 1902 the impression was made upon the minds of the membership of the Fifty-seventh Congress that the woods were ablaze in support of the oleomargarine legislation that was then pending before the Congress; that the great farming interests were a unit upon the proposition; that any sort of a measure that could possibly be enacted by Congress which would destroy the competition which then existed between the oleomargarine interest and the butter interest would be acceptable to the great body of the farmers. There never was a greater mistake on earth. I have the statistics here to show

you, from the Census Bureau reports, just what per cent of the people are interested, just what per cent of farmers are interested in the dairy business, and the percentage of farmers who are not interested in the dairy business, and I am going to embody these figures in my remarks. But I want now to direct your special attention to the number of farmers engaged in the dairy produce business as compared with the number of farmers engaged in the live stock business and in the cotton business. On June 1, 1900, there were 5,739,657 farmers in this country. Of that number those who were engaged in the dairy produce business were 359,578, or 6.2 per cent of the whole number. Eliminating, now, all the other population of the United States and confining my remarks to the farming population, if these figures are true, out of every 100 farmers 6.2 per cent of them are interested in the dairy business and 93.8 are interested as the consumers of the products of the dairy.

Mr. HAUGEN. Do you object to my asking you a question there?

Mr. BURLESON. Not at all, because I am endeavoring, as far as I can, to state the facts; and I want to say to the gentlemen of the committee that I would be glad if anyone would ask me any questions, because if I am in error about any statement which I make I would be glad to have it demonstrated at this time.

Mr. HAUGEN. I believe you stated that great frauds had been perpetrated both before and after this bill.

Mr. BURLESON. That is stating it a little broader than I stated it.

Mr. HAUGEN. Well, is it not fair to assume that the large part of the American people would favor the suppression of fraud?

Mr. BURLESON. Oh, certainly; undoubtedly. And the restrictive provisions of the bills that I have introduced will effect the suppression of fraud more completely than the restrictive features of the Grout bill. I will venture the assertion that if the proposition was submitted to the experts of the revenue department, the men who are engaged in the enforcement of the revenue laws, they would say that it will be infinitely easier to suppress frauds or to prevent frauds under the operation of the bills which I have introduced than it is under the present Grout bill.

Mr. HAUGEN. I inferred from your statement that you would have us believe that the only ones who are interested in suppressing these frauds are simply these dairymen, or the dairy people.

Mr. BURLESON. Oh, no. I said that that was one of the means used in prejudicing the minds of the consuming public against oleomargarine, by charging that it was a fraudulent product. I did not care to enter into this phase of the discussion, but in passing I will say that there would have been just as much justification, it would have been just as fair, when the Yankee cotton spinner discovered mercerized cotton, if the manufacturers of silk had come forward and said, "Why, you must tax mercerized cotton 10 cents a yard, because it looks and feels like silk, and it is liable to deceive somebody into the belief that it is silk." There would have been just as much reason in it, and just as much justification for it. But, as I was stating, the people who were behind the Grout bill industriously pushed it into the minds of the Members of Congress that the farmers of the country were behind that proposition, that it would be pleasing to them and would enhance their chances of receiving the support of their constituents if they gave it their votes; and as I say, be

it said to the credit of the Members of Congress, they are always anxious to respond to the will of their constituents, and it passed. I believe if there could have been a referendum upon the proposition, and eliminating every other human being in the country except the farmers and the matter could have been fairly submitted to them, there would have been an overwhelming vote against the enactment of the Grout bill if a clear understanding of that proposition could have been brought to them.

Now, let me proceed. This legislation is directly against the interest of every man who grows beef cattle in the State of Iowa or elsewhere in the United States. It is directly against the interest of every man who grows a ton of cotton seed in the South. And the farmers who are engaged in those occupations number, those engaged in raising live stock, 1,564,714, or 27.3 per cent of the whole; those who are engaged in the production of cotton, 1,071,545, or 18.7 per cent of the whole; a total of 46 per cent, as against 6.2 per cent engaged in the dairy business. There are over seven times, nearly eight times, as many farmers whose interests are injuriously affected. The great taxing power of the Government is misused to their disadvantage in order to put a few more pennies in the pockets of the 6.2 per cent who are engaged in the dairy business. I do sincerely hope that the members of this committee will keep in mind that there is a distinction between the creamery and the farmer. In 1905 there were ——— creameries in this country and ——— farmers. It is the creamery, the centralized creamery, which I speak of; and some of the prophecies made by those who opposed the Grout bill in the Fifty-seventh Congress have been verified, because they then predicted that with the elimination of the competition of this product the price of butter would advance by leaps and bounds, and that ultimately there would be a diminution in the number of creameries in this country, and that there would finally be formed a great dairy or butter-making trust. Whether one exists or not I do not know, but the law officer of this Government—and some charge that he is slow to action, but admitting even that he is slow to action, the great law officer of this Government—has moved upon a concern in Elgin, Ill., because of admissions made by men who are connected with that concern, charging that it is a trust and that their conduct had been such that it had resulted in restraint of trade.

[United States Census, Vol. 5—Agriculture. June 1, 1900.]

Principal source of income.	Number of farms.	Per cent of total.	Value of farm property.
Live stock	1,564,714	27.3	\$7,505,284,273
Hay and grain	1,319,886	28.0	6,379,548,546
Cotton	1,071,545	18.7	1,107,834,600
Dairy produce	387,678	6.2	1,695,467,302
Vegetables	155,898	2.7	546,921,966
Tobacco	106,272	1.9	.....
Fruits	82,176	1.4	.....
Sugar	7,844	.1	.....
Rice	5,717	.1	.....
Flowers and plants	6,169	.1	.....
Nursery products	2,029	.....	.....
Taro	441	.....	.....
Coffee	512	.....	.....
Miscellaneous	1,059,416	18.5	2,388,661,082
Total	5,739,657	.....	20,514,001,888

Location.	Dairy farms.	Live stock.
North Atlantic (New England, New York, New Jersey, and Pennsylvania).....	174, 910	171, 139
South Atlantic (Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida).....	11, 671	135, 109
North Central (Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, and Kansas).....	108, 403	916, 907
South Central (Kentucky, Tennessee, Alabama, Mississippi, Louisiana, Texas, Oklahoma, Indian Territory, and Arkansas).....	84, 940	271, 615
Western (Montana, Wyoming, Colorado, Utah, New Mexico, Arizona, California, Oregon, Washington, Nevada, and Idaho).....	27, 620	69, 745
Alaska and Hawaii.....	84	199

Now, having stated to you the number of farmers who are interested in butter making, the furnishers of cream and milk to these creameries, and the number of farmers who are interested upon the other side as consumers, it would be interesting to know the amount of capital invested in dairy farms as compared with that invested in other farms. Before I leave that other branch of the subject, however, I want to state that the last report of the Bureau of Census shows that there has been an actual diminution in the number of creameries in this country since the passage of the Grout bill—an actual diminution in the number. It would be interesting to know the amount of capital invested in these creameries. It would be interesting to know the return upon that capital, the percentage of that return on that capital, during the last few years. It would be quite interesting to know that.

Mr. Chairman, I do not want to do any injury or any hurt to any industry in this country, but the fact that this persistent onslaught upon oleomargarine has always emanated from those who are manufacturing butter naturally brings up the inquiry in one's mind, What is the comparative merit of these two products? As I state, I do not want to do any injury to any industry in this country, but a few days ago a distinguished Member of the House, solicitous about the health of the people of the United States, anxious to promote the welfare of the people of the United States, introduced a resolution, not containing wild charges, but based upon statements taken by him, as he stated, from reports made by the head of the Bureau of Animal Industry, charging that butter was a prolific source of disease and was a means of spreading tuberculosis and other diseases throughout the length and breadth of the country. Whether these charges are true or not it is not for me to say, but the responsibility rests upon the membership of this committee, anxious to discharge a public duty, as I know it is, to investigate with a view of determining whether or not there is truth in these charges.

The CHAIRMAN. To what resolution do you refer?

Mr. BURLESON. I refer to a resolution introduced by Mr. Parsons, of New York, and I will embody it in my remarks. This resolution asks that this committee be requested to investigate these matters. I do not know whether the members of the committee have read this resolution.

The CHAIRMAN. If it is short, read the whole resolution and let it go right in the record.

Mr. BURLESON. I will read the resolution. It is as follows:

[H. Res. 585, Sixty-first Congress, second session.]

Whereas it appears from the official reports issued by the Department of Agriculture, particularly during the past two years, that the alarming prevalence of tuberculosis in the human family in all parts of the United States and the District of Columbia and the prevalence of typhoid fever and other diseases which endanger the public health are due to a considerable extent to the consumption of milk and cream obtained from diseased cows and to the consumption of butter produced from milk and cream which contain tubercle bacilli and typhoid bacilli; and

Whereas it is stated in said official reports that typhoid bacilli will remain alive and virulent in butter manufactured from milk infected with such bacilli for a period of at least one hundred and fifty-one days, and that during this period of time these bacilli are ready to multiply whenever placed in suitable environment; that tubercle bacilli may remain alive and virulent in ordinary salted butter fully one hundred and sixty days after its manufacture from milk and cream infected with such bacilli; and, further, that more than one sample out of every twenty samples of commercial or market milk from various dairies supplying milk to the city of Washington were, by application of the tuberculin test, recently found to be infected with tubercle bacilli, thereby causing great danger to the public health; and

Whereas, it is also stated that ten per centum of all dairy cows in the United States are infected with tuberculosis; and

Whereas, it is also stated in said official reports that the financial loss which is chargeable to the prevalence of tuberculosis among farm animals amounts to no less than twenty-three million dollars annually and is dangerously on the increase: Therefore be it

Resolved, That the Committee on Agriculture of the House of Representatives be, and it hereby is, authorized and directed to investigate and ascertain the condition of milk, cream, cheese, and butter offered for sale or transportation in interstate commerce in the United States and the District of Columbia; report to the House of Representatives its findings as to the extent to which tuberculosis and other diseases are communicated to the human family by the sale and transportation of such infected articles of food, and to what extent tuberculosis is prevalent among farm and dairy animals in the United States and the District of Columbia; and to recommend to Congress legislation for the prevention of the spread of disease by the sale and transportation in interstate commerce of such infected dairy products as it may deem advisable.

Mr. STANLEY. I think that is of great interest to the States, but not of much interest to the people of the city of Washington, because we never get any butter within one hundred and sixty days after it is manufactured. [Laughter.]

Mr. BURLESON. That may be.

Mr. LEVER. Let me suggest to the gentleman from Texas that the facts stated in that resolution have been taken from the Twenty-fifth Report of the Bureau of Animal Industry of the Department of Agriculture.

Mr. BURLESON. So I understand, and so Mr. Parsons states in his resolution. I sincerely hope that the Committee on Rules will report out this resolution promptly, and that the House will promptly act upon it, in order that this committee may conduct an investigation at the same time that it conducts the investigation to determine whether the tax on oleomargarine shall be done away with. So far as I am concerned, I am perfectly willing to pit oleomargarine against butter, and let this committee determine whether or no butter is a more wholesome food product than oleomargarine, whether or no butter is a more nutritious food product than oleomargarine, whether it is even more palatable than oleomargarine. The Supreme Court of the United States, in that adjudication to which I referred a moment ago, said that the chemical constituents of oleomargarine and butter were identical, the only difference being that oleomargarine contains a certain percentage of butterine, as it is called—and butterine is the

nutritious quality that is contained in butter—a very small percentage less of butterine than butter itself. [Laughter.]

Just a moment. Mr. Chairman, I am anxious for the suppression of fraud in the sale of oleomargarine. I am willing to go quite as far as the president of the Dairy Union in throwing restrictions around its sale, and I am quite sure that there are some who bring cream to the creamery for the purpose of having it manufactured into butter—and we will establish that fact during the course of these hearings—who buy the oleomargarine and carry it back and consume it upon their own table. I doubt not some of the laughter which you heard a moment ago came from the same people who resort to that practice. [Laughter.]

Now, Mr. Chairman, I want to read to the committee just for a moment—and I intend to embody all of this in my remarks—from this statement, to which I referred a moment since. It was not prepared by me, but I want to read something about the administrative features of former laws and the present law. I will not read the part relating to the history of the legislation, and discuss the practical operation of the Grout bill.

The present oleomargarine laws were passed by Congress as revenue measures. The power of Congress to impose taxes on oleomargarine, as provided in the present laws, is based solely on the clause in the Constitution which authorizes Congress to levy excise and impost taxes uniformly for the purpose of raising revenue for the Government. I do not believe that any unprejudiced Member of Congress or fair-minded citizen will contend that the framers of the Constitution ever intended that Congress should so exercise the power to levy excise taxes as to impose internal revenue taxes upon a pure, wholesome, and nutritious article of food in order to foster a competing industry. Such an exercise of power is not only unconstitutional and unjust, but contrary to all the fundamental principles of our Government.

In this connection I desire to call your attention to both the revenue features and the administrative features of the present oleomargarine laws, including the original act of August 2, 1886, and the amendments thereto. The act of August 2, 1886, as a revenue measure, provided for a uniform tax of 2 cents per pound upon all oleomargarine produced, with provisions for payment of special taxes by the manufacturers, wholesale dealers, and retail dealers. There was no provision in that law for the restriction of the sale of oleomargarine by retail dealers to sales in original, unbroken packages. They were compelled by that law to break the original manufacturers' packages, usually containing 60 pounds or 100 pounds each, and to sell from such packages the contents thereof in quantities not exceeding 10 pounds at one time.

The retail dealers were also required to repack the product sold by them, in quantities of less than 10 pounds each, in wooden or paper packages, marked as the Commissioner of Internal Revenue might by regulations prescribe. Being compelled to thus break the original manufacturers' packages, and to sell from such packages in smaller quantities, repacked by themselves, unscrupulous and dishonest butter dealers, peddlers, and dairymen were tempted to sell small quantities of oleomargarine to customers who called for butter, without having marked such packages in the manner prescribed by the Commissioner of Internal Revenue. Because of the existence of these frauds, to a limited extent, which was made possible by the deficiencies in the administrative features of the law, and by the lack of provision for small original sealed packages, a demand was made by the allied butter interests that the law be amended by placing a tax of 10 cents per pound on oleomargarine, provided that oleomargarine, free from artificial coloration, should be taxed one-quarter of 1 cent per pound. Accordingly a bill, commonly known as the Grout bill, was introduced in Congress, and was finally, on May 9, 1902, enacted into law as an amendment to the original oleomargarine act of August 2, 1886.

It was claimed by the advocates of the Grout bill that if it should become a law it would prevent the fraudulent sale of oleomargarine as and for butter. Mr. Grout himself said at the hearings on his bill before the Senate Committee on Agriculture and Forestry, on December 19, 1900, referring to that section of the bill which provided for a 10-cent tax on colored oleomargarine:

"The object of this second section is to prevent the sale of oleomargarine as butter—to prevent fraud."

Mr. W. D. Hoard, who posed and still poses as the champion of the allied butter interests, said at the same hearing, on the same date:

"I will only add that the bill is for the purpose of preventing the counterfeiting of food so far as the constitutional power of the Federal Government can go."

It may be noted here that previously at the hearings before the same committee, on March 7, 1900, Mr. Hoard, as president of the National Dairy Union, while advocating this bill before the Senate committee, said:

"To give added force to the first section of the bill it is provided in the second section that a tax of 10 cents a pound shall be imposed on all oleomargarine in the color or substance of butter. In plain words, this is repressive taxation."

Mr. Charles Y. Knight, secretary of the National Dairy Union, in a letter to the Virginia diarymen, which was quoted on the floor of the House of Representatives during the discussion on the Grout bill, wrote:

"Now is the time for you to clip the fangs of the mighty octopus of the oleomargarine manufacturers who are ruining the dairy interests of this country by manufacturing and selling in defiance of law a spurious article in imitation of pure butter. We have a remedy almost in grasp which will eliminate the manufacture of this article from the food-product list. The Grout bill now pending in the Agricultural Committee of the House of Representatives in Congress meets the demand."

However, the Senate Committee on Agriculture and Forestry appears to have accepted the statements of Mr. Hoard and Mr. Grout, made before it on December 19, 1900, that the object of the 10-cent tax on oleomargarine was simply to prevent the sale of oleomargarine as butter and to prevent fraud.

The majority report of the Senate Committee on Agriculture and Forestry indorsed the report of the House Committee on Agriculture, in which it was stated:

"This tax will bring the cost of the colored article up to a figure that will take from it the possibility for the large profits which have been the incentive to violate the laws of the State and Government and defraud innocent purchasers."

On the other hand, the minority report of the same committee, signed by seven members of that committee, contains the following statement:

"The second section of the proposed bill imposes a tax of 10 cents a pound upon colored oleomargarine, or, in the language of the act, 'colored in the imitation of butter.' The advocates of this proposed legislation admit that their object is to place the tax on oleomargarine so high that it can not be placed upon the markets of the country if colored.

"It is the universal opinion of those engaged in the manufacture of oleomargarine that a tax of 10 cents a pound upon the product colored a yellow tint will destroy that industry, for the reason, which experience has shown, there would not be any considerable demand for oleomargarine in an uncolored condition. This opinion is based upon efforts which have already been made to introduce and sell the uncolored product in States where anticolor laws now prevail. The object, therefore, of imposing this excessive tax of 10 cents a pound upon colored oleomargarine is not for the purpose of raising revenue, but for the purpose of prohibiting its manufacture, and of thus destroying the industry. It is of no importance that the proposed legislation reduces the tax on uncolored oleomargarine from 2 cents a pound to one-fourth of a cent a pound. Unless there is reason to believe there would be a substantial production of that kind of article the increase of the tax to 10 cents a pound would in all probability prevent any substantial revenue being derived from its manufacture.

"The alleged frauds committed in the sale of oleomargarine are not attributed to the manufacturers, but to the retail dealers in the article.

"This brings us to the consideration of the question whether fraud in the sale of oleomargarine as butter can better be prevented by the proposed legislation, which imposes a tax of 10 cents a pound upon its manufacture, or by the enactment of more stringent regulations governing the retail dealer.

"Under the present law the retail dealer is required to break the original package in which he receives oleomargarine from the manufacturer. The smallest package which the law permits the manufacturer to place upon the market contains 10 pounds. The retail dealer is only permitted to sell from the manufacturer's original packages. If he desired to sell in 10-pound packages or over, he would be required to take out a wholesale dealer's license, which is fixed at \$480 a year. This makes it necessary for the retailer to break the original package, and it is conceded that whatever frauds may be committed occur by reason of this fact.

"If the retail dealer desires to commit a fraud upon his customer, the opportunity for so doing is thus afforded. If legislation can be enacted which will require the retail dealer to sell oleomargarine in the original package put up by the manufacturer without breaking the wrapper or the internal-revenue stamp of the Government, and if such wrappers and stamps were clearly and distinctly marked and

branded, under regulations of the Commissioner of Internal Revenue, the opportunity to commit fraud upon the customer would be wholly eliminated or reduced to a minimum. This opinion is entertained by those most intimately connected with the manufacture and selling of oleomargarine: and it is also the opinion of the Secretary of the Treasury, given in his statement before the Senate Committee on Agriculture, and also the opinion of ex-Commissioner of Internal Revenue, Mr. Wilson, given in his statement before the House Committee on Agriculture.

"Under the proposed bill the temptation to fraud on the part of the retail dealer would be largely increased from the fact that he will be enabled to buy the uncolored oleomargarine, on which one-fourth of a cent per pound tax is imposed, and by coloring the same himself increase the value of his product 9½ cents per pound, for the reason that he could sell the same at this largely increased profit for either butter or oleomargarine.

"We assume that the lawmaking power of the Government desires to prevent the possibility of fraud in the sale of oleomargarine as butter and not to destroy the industry itself. We therefore recommend legislation upon the subject which will make fraudulent sales as near impossible as laws can provide."

Let us consider the results of the practical operation of the Grout bill from the time it went into effect as a law on July 1, 1902, up to the present time, covering a period of nearly eight years, both as to revenue features and as to prevention of fraud. The tax collected by the Bureau of Internal Revenue, under the act of August 2, 1886, on oleomargarine—

That was the law governing the sale and manufacture of oleomargarine, which was in existence immediately preceding the act of 1902—

at a uniform rate of 2 cents per pound, for the fiscal year ending June 30, 1902, exclusive of all special taxes, amounted to \$2,462,532.82. Immediately after the amendment of May 9, 1902, placing a tax of 10 cents per pound on colored oleomargarine and a tax of one-quarter of 1 cent per pound on uncolored oleomargarine became effective as a law the amount of taxes collected by the Bureau of Internal Revenue on oleomargarine withdrawn, tax paid, exclusive of special taxes, decreased to an amount of only \$443,169.72 for the fiscal year ending June 30, 1903, as compared with \$2,462,532.72 collected during the last previous year. This shows a loss of revenue to the Government during the first year of the operation of the Grout bill as a law of \$2,019,363; and in addition to this, the loss in special taxes collected from manufacturers, wholesale and retail dealers, was \$190,652.74, showing a total loss of \$2,210,015.74. The amount of taxes collected on oleomargarine, including both the colored and uncolored articles withdrawn, tax paid, during the last fiscal year ending June 30, 1903, exclusive of special taxes, was \$543,150.07, which is \$1,919,382.65 less than the amount, exclusive of special taxes, collected on all the oleomargarine withdrawn, tax paid, for the fiscal year ending June 30, 1902, immediately before the amendment of May 9, 1902, went into effect. In addition to this, there was a loss in amount of special taxes collected during the last fiscal year as compared with the fiscal year ending June 30, 1902, of \$217,546.55, making a total loss of at least \$2,136,929.20 in revenue during the last fiscal year as compared with the taxes collected during the fiscal year ending June 30, 1902, under the original act of August 2, 1886, which provided a uniform rate of tax at 2 cents per pound. All these figures are taken from the annual reports of the Commissioner of Internal Revenue.

The enactment of the Grout bill into law, placing a tax of 10 cents per pound on oleomargarine, has caused this Government a loss in revenue of considerably over \$2,000,000 each and every year since the law went into effect. And in addition to this, large additional expenses have necessarily been incurred in the attempt to suppress the increase of frauds which were caused directly by the provision in the present law placing a tax of 10 cents per pound on colored oleomargarine, which provision the advocates of the Grout bill falsely prophesied was the proper legislative prevention of all fraud. It will be shown that this law which was placed upon our statutes at the dictation of the dairy interests has been a total failure as a revenue measure, and has cost the Government nearly \$20,000,000 in less than eight years.

As to the increase of frauds, it has been proven that the direct incentive to the frauds committed is the imposition of a tax of 10 cents a pound on colored oleomargarine; and the members of the Committee on Agriculture who signed the minority report in opposition to this law have been proven to be true prophets in their statement heretofore recited, and which I wish now to repeat, that "Under the proposed bill the temptation to fraud on the part of the retail dealer would be largely increased from the fact that he will be enabled to buy the uncolored oleomargarine, on which one-fourth of a cent per pound tax is imposed, and by coloring the same himself increase

the value of his product 9½ cents per pound, for the reason that he could sell the same at this largely increased profit for either butter or oleomargarine."

That was embodied in the minority report on the Grout bill.

The advocates of the Grout bill and the majorities of the Agricultural Committees in both Houses refused to report favorably the substitute bill offered by the minorities—

And this bill which I have introduced and which we are now considering is practically the bill offered by the minority at the time of the passage of the Grout bill—

which provided that the manufacturer should put up his product singly in small packages of 1 and 2 pounds, respectively, adapted to the retail trade, sealed with a government revenue stamp, and with such marks, brands, and indentures thereon as would fully identify the product to the consumer, with heavy penalties for the breaking of the package by any person except the consumer. It seemed strange at that time that the advocates of the Grout bill should reject such administrative features, which, if they would not prevent fraud entirely, would certainly minimize it. But the history of the frauds committed during the past eight years may shed some light upon the matter. We will show to you that the chief offenders are not the retail grocers and retail butchers who sell oleomargarine, and who conduct their business openly for general trade, but that these frauds have been committed principally by dishonest peddlers, butter dealers, and dairymen, who, because of the lack of proper administrative features in the present laws and principally because of the direct invitation to fraud arising from the difference in tax between the colored and uncolored oleomargarine and the large profits to be gained thereby, purchase uncolored oleomargarine in bulk form, in 60 and 100 pound tubs, and secretly color it and sell it from the butter stores and farms and peddler wagons as butter. We will show that the dairymen themselves are buying uncolored oleomargarine for use on their own tables, and not only this, but that they are buying much larger quantities of uncolored oleomargarine than they can possibly use on their own tables, and at the same time are selling increased quantities of what they term "butter" to the consumers in the cities and towns.

I do not hear the laughter that I heard a moment ago.

As to the increase of frauds, permit me to quote to you from the annual report of the Commissioner of Internal Revenue for the fiscal year ending June 30, 1909:

"During the fiscal year ended June 30, 1909, all available members of the field force especially qualified for the work were detailed for duty in connection with the detection and punishment of violations of the oleomargarine law, with the result that the greatest number of violations of this law since its inception was discovered, and the largest number of prosecutions, convictions, sentences of imprisonment, and heavy fines was secured. The total number of violations discovered during the fiscal year 1909 was approximately 25 per cent more than the previous year, which up to that time was the record year, while the prosecutions for the twelve months ending June 30, 1909, were approximately 100 per cent more than ever before in the history of the enforcement of this law. A special force of experts in this line of work is now engaged in running down violations of the law."

This is still from the report of the Commissioner of Internal Revenue:

"Notwithstanding this activity, it has been found that the number of violations is steadily increasing. Several material defects in the law have been brought out by various court decisions. These defects, together with the incentive to fraud on account of the difference in the rates of stamp and special taxes imposed for the manufacture and sale of the colored and uncolored product and the ease with which illicitly colored goods can be produced and disposed of, render remedial legislation imperative."

Here it comes from this officer of the Government, a statement that there is an imperative necessity for some such legislation as is offered in the bill I have introduced.

"In the absence of such remedial legislation, provision will have to be made for a considerable increase of force if the situation is to be kept in hand."

Now, gentlemen, as is stated in this report, the need for remedial legislation is imperative. These frauds, which have, under the iniquitous law foisted upon us by the self-styled champions of the dairy interest, increased 100 per cent more than ever

before in the history of the enforcement of this law, are due almost entirely to the great incentive created by the imposition of the tax of 10 cents per pound on colored oleomargarine. This must be true, because the original act of August 2, 1886, contained no better administrative features than the present law, but there were less frauds under that law because the rate of tax was uniform upon both kinds of oleomargarine. Now, if this committee is to recommend the remedial legislation requested by the executive branch of the Government and demanded by the consumers who desire to purchase a pure, wholesome article of food, without being taxed unreasonably for so doing, shall such legislation be dictated by the same dairy interests, now developed into a butter trust, who eight years ago advocated the Grout bill and caused to be enacted the most inequitable and unjust law in the federal statutes? Should the proposed remedial legislation be dictated by the members of the butter trust who falsely pose as champions of the farmer and who, while exacting exorbitant prices from the consumer for the product of their centralizers and combination creameries on the one hand, are forcing the real farmer who may have milk and cream to sell to dispose of his products to them at the lowest possible prices?

On January 13, 1902, Mr. Hoard again came before the Committee on Agriculture in the House of Representatives, and replying to the question as to whether this bill or a similar measure would be demanded if, after its passage, just as much oleomargarine would be manufactured and put on the market as is now manufactured and sold, said: "In that case, sir, I would come before Congress and demand a still higher tax."

I will say to you, and I say it advisedly, that less than 10 per cent of the farmers of this country are engaged in the dairy business or make a business of selling dairy products from their farms.

I have shown you this morning that it is 6.2 per cent.

The business of manufacturing butter of all kinds has already been largely absorbed by the dairy trust, which establishes its combination creameries and centralizers throughout the country, creates a monopoly, controls prices for its own selfish interests, and seeks to control legislation. Only a very small percentage of the real farmers whom they pretend to represent are found in this trust; but they are used by the trust as a cat's-paw in the matter of legislation. When the real farmers learn the truth and understand how they are being tricked, they will rise with the laboring men and vast body of consumers to wipe out and eradicate the present unjust oleomargarine laws.

Now, Mr. Chairman—

The CHAIRMAN. Will you let me ask you a question?

Mr. BURLESON. Certainly, sir.

The CHAIRMAN. Are you able to give the committee a statement showing the amount of oleomargarine manufactured and sold in the last fiscal year as compared with the amount manufactured and sold in the last fiscal year preceding the adoption of the legislation?

Mr. BURLESON. Yes, sir; during the fiscal year 1909 there was 92,282,815 pounds of oleomargarine, colored and uncolored, manufactured. In 1902, the last fiscal year before this law went into effect, there was 126,316,427 pounds. In 1903 the output had decreased to 72,284,006 pounds; in 1904 it decreased to 50,199,624 pounds; and in 1905 it was 51,987,336 pounds, and during that year there was manufactured in this country 531,478,141 pounds of butter.

Gentlemen, we will show during the course of this hearing that the present law has signally failed in both of its purposes. In fact, the pretense that it was a revenue measure was only a pretense. Everybody knew that instead of being a revenue measure, it was a gross misuse of the taxing power of this Government which was being sought in order to suppress or injure a legitimate industry. It was charged by those who opposed the Grout legislation that it was a prostitution of the taxing power of this Government to levy a tax of 10 cents a pound upon oleomargarine, under the pretense that it was a revenue measure. We have shown that instead of bringing

about an increase of revenue it has lost this Government, during the last few years, \$20,000,000. The report of your own officer establishes the fact that frauds have increased under the administration of the Grout law as compared with the frauds that existed or took place under the act of 1886.

Now, one word about the influences behind this bill. I introduced this original bill without a suggestion from a living human being upon earth. I did it because I believed this legislation, the present law, was inequitable, unjust, and indefensible; that it was a use of the taxing power to injure one industry in the interest of another. When I introduced it first, the bill attracted but little attention. I introduced it again, and it attracted but little attention. I received a few letters from the manufacturers of cotton-seed oil saying it was just and that the present law should be repealed. I received one letter from a state live-stock association in one of the States indorsing the bill. Then the session of Congress came on when we were to revise the tariff, and I knew the exigencies surrounding the Republican party at that time, and I was anxious, if I could, to help them out, in a way, and I brought to the attention of a very influential Senator the bill which I had introduced, with a view of having a real revenue measure erected upon the destruction of this hypocritical law which now scars our statute books, and I believe that we would have succeeded when the tariff law was being considered, but for the activity of a very prominent Republican Representative who resides in the State of Minnesota. But we got over that; we did not succeed. Then I received a number of resolutions, one adopted over in Pittsburg by labor organizations, indorsing my bill and urging the repeal of the burdensome tax on colored oleomargarine. I received a communication from the president or the secretary, I forget which, now, of the Retail Grocers' Association. Mr. Green, were you president or secretary of that association?

Mr. GREEN. Secretary.

Mr. BURLESON. I received this communication from the secretary of the National Retail Grocers' Association, manifesting an interest in this proposition. Then I received a letter from the president of the Retail Butchers' Association; and then I introduced the bill again at this session, and prior to the time that the gentleman from Illinois, who is engaged in this business, was elected as a Member of Congress and came here at this session of Congress, I had no communication, directly or indirectly, from the people who are interested in the manufacture of oleomargarine. It strikes me that they are rather indifferent whether this law is passed or not. I hope they will interest themselves in it, and if they can bring pressure to bear or bring light to any Member of Congress, to point out the inequities of this law, I hope they will do it. But so far they have turned rather a cold shoulder to the proposition. The cotton farmer, the cattle grower, and the great army of consumers are behind this movement to repeal this tax. The advocates of this legislation have nothing to conceal from this committee. We propose to conduct this contest in the open, and I assure you that there will be no resort to any underhand methods. There will be no resort to any "black-hand" methods; there will be no threats for purposes of intimidation; there will be no influences under cover utilized by the proponents of this legislation, as far as I can control it or as far as those who have

engaged with me will have any voice in the matter. And above that it is our purpose to avoid doing anything like being guilty of conduct like that indicated in this letter which I now propose to read to you. I hope that this is not throwing light upon the methods that the dairy interests of this country propose to resort to in order to throttle this legislation. This letter is as follows:

DALLAS, TEX., April 15, 1910.

MAJ. ROBERT GIBSON,

Secretary Interstate Cotton Seed Crushers' Association, City.

DEAR SIR: I wish to call your attention to the fact that a gentleman representing himself to be connected with creamery butter interest of America called on me the other day and tried to get me to write a letter to our Congressman, Mr. Jack Beall, and use my influence with him, as pure-food chemist of the city of Dallas, to defeat the Burleson bill now before Congress.

I told him that I would do nothing of the kind, as from my scientific investigations I was convinced that oleomargarine was a far purer product and far healthier than the vast majority of the creamery butter now sold in this city.

I wish to inform you of this conversation and state that I am heartily in sympathy with the Burleson bill and sincerely trust that same will be passed by Congress.

Yours, very sincerely,

LONDON C. MOORE, *City Chemist.*

Now, Mr. Chairman, we are going to try, as far as we can, as I stated to the membership of the committee the other day when the committee was in session, to avoid repetitions and duplications of testimony, and, as I stated the other day, we invite the butter people not only to the contest, but we are willing that they should be given the best of the contest, if having an opportunity to reply to anything we have to say affords them the best of the contest. We shall direct our attention first to showing the wholesomeness of oleomargarine, chemically, and also as a result of rigid inspection. Second, we will address ourselves to showing the demand upon the part of the consumers of this country for this product, of the laboring people and the retail grocers and retail butchers and other people who are interested as consumers of it. We will next address ourselves to the proposition that the tax as it now exists reduces the consumption of this product in the interest of a higher-priced product. Next we intend to bring Doctor Melvin here, if we can get him here, and Doctor Schroeder, and those who have made these charges referred to by Mr. Lever, the gentleman from South Carolina, a moment ago, in the bureau reports, as to the prevalence of impurities in butter. Next we are going to show you the reason why they use coloring matter in butter. They insist that the only objection that they have, the practical objection that they have, to oleomargarine is that it is colored in imitation of butter; and yet, according to the president of the dairy union's own admission, the vast majority of the product of the dairies is colored in the same way. We are going to address ourselves then to the testimony of the Chief of the Bureau of Internal Revenue as to the features of the existing law, as compared with the features of the proposed pending bill, as to the increase of revenues that will be secured. We will show the combinations that are now in control of dairy interests in this country, the effect upon the small percentage of farmers who are patrons of these creameries, and then the effect on the general consumer, showing the inequities and injustice of the existing laws.

Now, I will be glad to answer any questions.

MR. HAUGEN. Is it your contention that the law should be repealed because it is being violated?

Mr. BURLESON. Oh, no. I will say to the gentleman from Iowa, I say candidly to this committee, I have introduced this bill because I believed it was the best thing in the way of legislation that I could secure at the hands of Congress. If I had my way, if oleomargarine is an impure food product, if it is not a wholesome product, I would suppress it under the pure food act. If it is a wholesome product, if it is a nutritious product, I would not tax it any more than I would any other food product. But I can not have my way about it.

Mr. HAUGEN. The fact of the case is that the last law which was enacted reduced the tax on oleomargarine from 2 cents a pound to one-fourth of a cent a pound.

Mr. BURLESON. On the uncolored product.

Mr. HAUGEN. That is, when oleomargarine is sold for what it is; but when made in imitation of something else, of butter, the tax was made 10 cents a pound. You spoke of it as a revenue measure. It can hardly be expected to prove a revenue measure where the tax is reduced from 2 cents a pound to one-quarter of a cent a pound.

Mr. BURLESON. And yet if you had declared, on the face of the Grout bill that you supported, that it was not intended as a revenue measure, but as a repressive measure, the Supreme Court of the United States would have held it unconstitutional in the twinkling of an eye.

Mr. HAUGEN. That is probably true, but that was a means by which we did that at that time.

Mr. BURLESON. The advocates of the Grout bill said at the time that it would decrease frauds, and it has been conclusively proved that they were false prophets; instead of suppressing what you term fraud, instead of decreasing the fraudulent sales of oleomargarine as butter it has increased the sales of oleomargarine as butter.

Mr. PLUMLEY. You gave us the figures on the amount of butter, and I lost the figures for 1902 and 1903.

Mr. BURLESON. I will give those figures to you in a second.

Mr. PLUMLEY. Thank you.

Mr. BURLESON. By the way, I will state to the gentleman that this bulletin, No. 64, of the Census Bureau, of 1907, on the manufacture of butter, cheese, and condensed milk, contains the information that I have on this. I gave the number of pounds of butter manufactured in 1905 only, it being 531,478,141 pounds of butter.

Mr. PLUMLEY. One question more, Mr. Burleson.

Mr. BURLESON. Yes, sir.

Mr. PLUMLEY. You spoke of your intense desire to help the Republicans out during their exigencies. I would like to know just how far out you wished to help them? [Laughter.]

The CHAIRMAN. The witness need not answer that question unless he wants to.

Mr. BURLESON. Well, it was my desire to help them relieve themselves of this inequitable and unjust law which had been placed on the statute books during the time they were in control of legislation.

Mr. STANLEY. Mr. Haugen, as I understand your objection to this measure to repeal this act it is that it would allow artificially colored oleomargarine to be sold as butter; that it would allow things to be placed on the market purporting to be one thing when they were really another, the deceiving appearance being given by the color. Would you be in favor of levying a similar tax of 10 cents a pound on artificially colored butter?

Mr. HAUGEN. Artificially colored butter?

Mr. STANLEY. Yes.

Mr. HAUGEN. I would be in favor of taxing butter or anything else whenever it is sold as a counterfeit.

Mr. STANLEY. If white butter is colored yellow by a creamery, is it not a fraud?

Mr. HAUGEN. In coloring.

Mr. STANLEY. Yes.

Mr. HAUGEN. Oleomargarine is not the only thing that is being colored to make it seem palatable.

Mr. STANLEY. The question is as to the effect of the color on palatability.

The CHAIRMAN. I should like to ask Mr. Burleson one or two questions.

Mr. BURLESON. Yes, sir.

The CHAIRMAN. The figures which you read showed that there was a very heavy falling off immediately after the enactment of the Grout bill.

Mr. BURLESON. Yes, sir.

The CHAIRMAN. And that the product has been increasing each year since that time, until the original figures are almost reached?

Mr. BURLESON. Not almost reached; but it is gradually being reached.

The CHAIRMAN. No; but the amount being manufactured is gradually increasing?

Mr. BURLESON. Yes.

The CHAIRMAN. I would like to know whether or not you have looked into the matter and formed an opinion as to why that is taking place?

Mr. BURLESON. Undoubtedly it is attributable to the high cost of butter. I will put this entire table in, showing the cost of butter per pound and the amount of oleomargarine produced from 1887 to 1909.

(The table referred to by Mr. Burleson is here inserted in the record as follows:)

Year.	Price of butter per pound.	Oleomar- garine produced.
	Cents.	Pounds.
1887.....	25½	21,513,537
1888.....	26½	34,325,537
1889.....	23½	35,664,026
1890.....	22½	32,324,032
1891.....	25	44,392,409
1892.....	25½	48,364,155
1893.....	25½	57,224,298
1894.....	22	69,622,246
1895.....	20½	56,958,106
1896.....	17½	50,853,234
1897.....	18½	45,531,207
1898.....	18½	57,516,136
1899.....	20½	83,130,474
1900.....	21½	107,045,028
1901.....	21½	104,943,856
1902.....	24½	126,316,427
1903.....	23½	72,284,006
1904.....	21½	50,199,624
1905.....	24½	51,987,326
1906.....	24½	55,434,900
1907.....	27½	71,366,775
1908.....	27	81,525,600
1909.....	28½	92,282,815

• Butter, 531,478,141 pounds.

You will notice that the production of oleomargarine increased as the price of butter went up, and vice versa, showing that the substitute for butter is necessary when the price is higher. Undoubtedly the increasing output of oleomargarine during the years 1907, 1908, and 1909 is attributable to the high price of butter. Those were the three years in which the increase took place. It dropped off in 1903 to 72,000,000 pounds and in 1904 to 50,000,000 pounds, and then during 1907 and 1908 and 1909 there was a gradual increase, attributable to the abnormal price of butter, brought about, in my deliberate judgment, in part by a combination of butter dealers in Elgin, Ill. [Laughter.]

The CHAIRMAN. Can you give the committee any information as to the relative amounts of colored and uncolored oleomargarine that have entered into consumption?

Mr. BURLESON. Not into consumption; a large part of the product is exported. I can give the committee the exact quantities of uncolored and colored oleomargarine that were being manufactured prior to 1907. During the fiscal year ending June 30, 1909, the tax was paid on artificially colored oleomargarine to the amount of 3,275,960 pounds. At 10 cents a pound that would be \$327,596. There was a tax of one-quarter of 1 cent a pound on 86,221,310 pounds of uncolored oleomargarine. I believe that is the information you desired. That gives the proportion of colored to uncolored oleomargarine that was manufactured.

The CHAIRMAN. Does that statement show whether the proportion of colored to uncolored has been increasing or diminishing during the last eight years?

Mr. BURLESON. No; I have not that at hand. I can secure it and will furnish it to the committee. The only data I have showing the quantity of colored and uncolored oleomargarine manufactured for any given year are for the year 1909, last year.

The CHAIRMAN. It seems to me that that information would be interesting as tending to show whether uncolored oleomargarine was making a market for itself.

Mr. BURLESON. I think the frauds that have been perpetrated during the last year or two show that there has been more of the uncolored oleomargarine bought from the retail grocers by butter peddlers and peddlers generally, and then colored and offered for sale.

Mr. LEVER. The report of the commissioner does not seem to give the amounts of uncolored prior to this bill, but since 1903 it gives the number of pounds of each article, the uncolored as well as the colored, and I take it that the manufacture and sale of the uncolored oleomargarine has increased. A very small proportion of the 23,000,000 pounds that was manufactured and sold prior to the passage of this bill was uncolored. It was all colored in imitation of butter. Since then, 86,000,000 pounds is now being manufactured and sold of the uncolored.

The CHAIRMAN. There was no penalty imposed on the coloration under the old law.

Mr. HAUGEN. There was a tax of 2 cents a pound.

Mr. BURLESON. A certain proportion of this uncolored oleomargarine is exported.

Mr. HAUGEN. Prior to the passage of the bill the tax was the same, 2 cents a pound, on the colored oleomargarine and on the uncolored.

The CHAIRMAN. That is what I said, there was no penalty for coloration, and therefore no accounts were kept of the colored and uncolored.

Mr. STANLEY. Have you examined, as a lawyer, the last food-inspection decision by the President of the United States with reference to rectified—

Mr. BURLESON. Whisky?

Mr. STANLEY (continuing). Whisky and compounds and imitations of whisky? In my opinion, as a lawyer, this law is practically repealed by that decision of the President of the United States, and rendered null and void, and I believe that you can color oleomargarine or anything else. Unfortunately, that gives every man the right to take alcohol, and the foreshots, which are notoriously poisonous to the human system, and color them with burnt caramel or anything you choose, and so long as there is a certain amount of alcohol in the decoction it can be sold as whisky without indicating the nature of the compound or the character of the mixture.

Mr. BURLESON. I will say to the gentleman from Kentucky that I do not agree with him on that.

Mr. STANLEY. I have examined that decision very carefully and looked over this law, and I believe under that decision, if the President will follow out the inexorable logic of his finding, you can color oleomargarine and sell it for butter.

Mr. BURLESON. I repeat that I do not agree with that. I will state to the gentleman from Kentucky that I do not concur in the finding of the Executive Department as to what is whisky, although I do not pretend to speak as an expert on this subject. Some one has handed me the report of the Commissioner of Internal Revenue, showing the product taxed at the rate of 10 cents a pound for the years 1903, 1904, 1905, 1906, 1907, 1908, and 1909, and the product taxed at one-quarter of a cent a pound, which I will put in the record.

(The table referred to is as follows:)

Comparative table of the production, withdrawal tax paid, and withdrawals for export of the two classes of oleomargarine, as defined by act of May 9, 1902, which became effective July 1 of that year.

Year.	Product taxed at rate of 10 cents per pound.			Product taxed at one-fourth cent per pound.		
	Produced.	Withdrawn tax paid.	Withdrawn for export.	Produced.	Withdrawn tax paid.	Withdrawn for export.
1903.....	5,710,407	2,312,493	3,334,969	67,573,689	66,785,796	151,698
1904.....	3,785,670	1,297,068	2,504,940	46,413,972	46,397,964	123,425
1905.....	5,560,304	3,121,640	2,405,763	46,427,032	46,223,691	137,670
1906.....	4,898,986	2,503,095	2,422,320	50,545,914	50,536,466	78,750
1907.....	7,758,529	5,009,094	2,695,276	63,608,246	63,303,016	129,360
1908.....	7,452,800	4,962,029	2,522,188	74,072,800	73,916,869	109,490
1909.....	5,710,301	3,275,968	2,403,742	86,572,514	86,221,310	112,968

The CHAIRMAN. Before you introduce anyone else, Mr. Burleson, the committee would like to hear from Mr. Lever, who has introduced a bill and who desires to make a statement in connection with it.

**STATEMENT OF HON. ASBURY F. LEVER, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF SOUTH CAROLINA.**

Mr. LEVER. Mr. Chairman and gentlemen of the committee, I do not care to take much time of the committee, but in wading through the literature of this important subject during the past few days I happened to find a remarkable speech delivered in the Fifty-seventh Congress; remarkable for the soundness of its conclusions and for the patriotism of its conception. That speech ought to be on the desk of every member of this committee, and it would pay them to read it at least once a day, until its soundness might penetrate into the brains and hearts of each. I made that speech, myself, away back yonder. [Laughter.] I was then opposed, Mr. Chairman, to the present law. It was my first attempt at national legislation. I am now opposed to the present law and I have introduced a bill on the subject, which roughly embodies my views upon the proposition. It is a bill which differs radically from the other bills before the committee, and it was for this reason that I thought it due the committee and due myself and due the country interested in this proposition that I should briefly outline its provisions.

Mr. Chairman, a number of bills are before the committee seeking to amend the present oleomargarine law, commonly known as the Grout bill, which levies a tax of a quarter of a cent a pound upon uncolored oleomargarine and 10 cents a pound upon colored oleomargarine, and at the same time places a license tax of \$600 a year upon the manufacturer and of \$480 a year upon the wholesaler and \$48 a year upon the retailer of this important food product. It may sound ridiculous for me to say it, and it is a ridiculous inconsistency of the law, that here is a great human food product, in which every person in this country is interested, having a tax of \$600 per annum upon the manufacturer thereof, while the manufacturer, the distiller, of whisky, under the law goes scot free of a license. It may sound peculiar, but it is true, that here is a great human food product for which the wholesaler must pay an annual tax of \$480 before he can wholesale a pound of it when the wholesale license for the sale of whisky is only \$100 per annum.

Mr. STANLEY. Does that apply to the uncolored oleomargarine?

Mr. LEVER. No; it applies to the colored oleomargarine, as I recollect it. It may sound peculiar, but it is true also, that the corner grocer who desires to sell a wholesome human food product to his neighbors must pay a retail license of \$48 a year while the corner grog shop pays only \$25 a year. In other words, the husband who goes out to bring to his wife and family a spread of butter, must go into a corner grocery store, the owner of which must pay \$48 license to sell this product, when the same husband, when he goes out to bring to his family, his wife and his children, a genuine old-fashioned jag goes into a corner bar room, the owner of which pays only \$25 a year license for putting him on the jag. Those are propositions which I think it is very well for the committee to remember. To my mind, Mr. Chairman, the present law is the most vicious piece of legislation ever enacted by the Federal Congress. It is undemocratic, un-republican, and un-American. It is a burdensome tax upon the table of the poor, and a legalized form of fraud. The ostensible purpose of the present law, as claimed by its advocates and its author, was to

raise revenue and to prevent the sale of oleomargarine as butter—to prevent a fraud. Am I justified in the latter part of that proposition, that the ostensible purpose of the advocates of this legislation originally was to prevent fraud upon the public? I desire to read you briefly, Mr. Chairman and gentlemen, a statement from the author of this bill, Mr. Grout, as appearing in the hearings before the Senate committee back in 1901. He says:

The object of this second section is to prevent the sale of oleomargarine as butter, to prevent a fraud, and we say that it is the only rational construction which can be given, because if the purpose of the section was to destroy the article, it would not provide, as it does in the closing clause, for a small tax.

And farther on he says:

All that it seeks to destroy is the fraud that is perpetrated when it is colored as butter.

Mr. RUCKER. Will the gentleman pardon me just a moment?

Mr. LEVER. Yes.

Mr. RUCKER. I expect all of the committee would like to hear what Mr. Lever has to say, and several members have already retired because the hour for the meeting of the House has arrived, and I would suggest that it would be best to suspend his remarks until we can have the committee here.

Mr. LEVER. Of course I am quite willing to accommodate myself to the convenience of the committee.

(After further informal discussion the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the committee resumed its session.

STATEMENT OF HON. ASBURY F. LEVER, REPRESENTATIVE FROM SOUTH CAROLINA—Continued.

The CHAIRMAN. Are you ready to proceed, Mr. Lever?

Mr. LEVER. Mr. Chairman, I will detain the committee for only a short time; and I want to say to the committee that I would not detain it as long as I may except for the fact that I would like to get my statement into the record in a connected form. I shall certainly try not to tire the committee, and will take, perhaps, only ten minutes in all.

When the committee recessed I was reading from the statement of Mr. Grout, the author of the law under consideration, in which he sets out the fact that the purpose of this law was to prevent fraud and deception.

I want to read now from the same hearings, the hearings before the Senate committee, at page 11, from the statement of Governor Hoard, who, perhaps, had more to do with the passage of the present law than any other one man. He says:

I will only add that the bill is for the purpose of preventing the counterfeiting of food, so far as the constitutional power of the Federal Government can go. The Federal Government is limited in its constitutional power. * * * We believe this is a taxation of a counterfeit and a fraud in the interest of fair dealing, in the interest of the consumer, and in the interest of the producer.

That is the statement of Governor Hoard. That is exactly the position upon which I plant my bill. It is to protect the consumer, to protect the producer, against deceit and fraud.

I read further from the same hearings, on page 127, a statement by Mr. Flanders, who is now the president of the dairy union, in which he backs up the position taken by Governor Hoard and Mr. Grout:

We want the fraud stopped, and then we want your people, if your goods are as good as you say they are, to step out into the open market and sell them for what they are, so that they can deceive no one. That is fair.

We agree to that proposition. My bill agrees to it. It is built upon it.

I read further from the same hearings, on page 256, the statement of Mr. Knight, who at that time was the secretary of the dairy union, and influential in pressing this legislation to a favorable conclusion. Mr. Schell was examining this witness, and he says:

I would like to have these gentlemen on record, so that we may know just exactly where they stand. And I am going to ask Mr. Knight this morning—and I think I am entitled to ask the question—that he place himself on record; that he tell us whether the object of this agitation, the object of this bill, is to absolutely prohibit the manufacture and sale of colored oleomargarine, or whether he is willing that the manufacture and sale of this product shall be so hedged about with law, with regulations, with provisions, that it will be compelled to be sold on its merits, and not to encroach (if it ever has encroached) upon the particular province of dairy or creamery butter. Will you kindly advise me, Mr. Knight?

Mr. Knight answers.

I will say to Mr. Schell that if he will present a measure which the people who have had experience in enforcing the dairy laws believe will hedge it about with such safeguards as that colored oleomargarine can be put to the consumer without deceit and fraud, I am sure we will all accept it.

Mr. Chairman, as stated this morning, the ostensible purpose of the proponents of the present law was to prevent fraud and deceit in the sale of one of the chief foods of human consumption. Looking through these various bills, and studying the law, I believed that we could reach this end through the "original package" idea, without subjecting the consumers of this product to a burdensome tax of 10 cents per pound; and hence the introduction of my bill.

Have the purposes of this law been carried out? is the important question that we must deal with in this hearing and that this committee must deal with in considering this question. Has it been a success in raising revenue? which was to some extent an incidental question involved. Has it been a success in preventing fraud? Let us see.

The present oleomargarine law became operative July 1, 1902. It has been in operation nearly eight years—sufficiently long to demonstrate the claim made for it by its supporters. It will be shown later by testimony by officials of the Treasury Department, which collects the revenue and enforces the law, that the revenue collected under the present law has decreased nearly 75 per cent, while at the same time the fraudulent sale of oleomargarine has increased nearly 100 per cent.

I call your attention, gentlemen of the committee, to page 86 of the annual report of the Commissioner of Internal Revenue for 1909, and will detain you for just a moment to read what he says:

The total number of violations discovered during the fiscal year 1909 was approximately 25 per cent more than the previous year, which up to that time was the record

year, while the prosecutions for the twelve months ending June 30, 1909, were approximately 100 per cent more than ever before in the history of the enforcement of this law.

The prosecutions had increased 100 per cent during that year, to say nothing of the violations of the law which could not be and were not detected by the officials of the Government. So I think it just to conclude that the purposes of the framers of this bill to prevent fraud have not been a success; that it has been a failure; that the law, so far as preventing fraud and deceit is concerned, is an absolute farce. In this connection I want to say, and to emphasize it as strongly as I can, that the only purpose of the bill that I have introduced is to protect the consuming public against the fraud that may be palmed off upon it either by the butter interest or by the oleomargarine interest. I do not stand here holding a brief for any particular section of the country. I do not hold a brief for any particular interest of the country. I do not stand here fighting any particular interest of the country, nor any particular section of the country. I am here, I believe, in the interest of the great consuming public, to protect it against fraud, and to give to it a law which will protect it, and which will take the place of the farcical law we now have. Neither the butter or oleo interests give me great concern; the protection of the public is my chief concern.

The principle in this character of legislation is repugnant to our ideas of personal liberty and equality under the law. It is out of harmony with the spirit of fair play so characteristic of the American people. Jefferson himself never uttered a greater truth than when he said this:

The government which steps out of the ranks of the ordinary articles of consumption to select and lay under disproportionate burthens a particular one because it is a comfort, pleasing to the taste, or necessary to the health, and therefore will be bought, is in that particular a tyranny.

The taxes on consumption, like those on capital or income, to be just, must be uniform.

We all know that there is no more universal demand than that for butter or something to take the place of butter—a substitute. Butter is not a luxury, but a necessity of life, and there is a demand on the part of all classes in the community for a pure butter at a reasonable price or a pure butter substitute at a reasonable price. It is one of the most important necessities of life. In the average household butter comes second in the expense list for provisions. It is larger than the outlay for bread, coffee, or sugar, and is exceeded only by the meat bills. It is especially the food of the poor, the laboring people of the country.

The bill I have introduced on this subject, as I said this morning, differs radically from all the others on the subject, in that it absolutely repeals the tax of every character on the product, its manufacture and sale, and provides for the protection of the consumer as well as the dairyman. The bill might with propriety be called: "A bill to remove a heavy and unjust tax from the tables of the working people, and to protect that class against fraud at the hands both of the dealers in butter and oleomargarine."

The bill is in keeping with the spirit underlying the meat-inspection amendment and the pure-food legislation—policies upon which we have entered recently in the interest of the consuming public.

And now, gentlemen of the committee, I come to the provisions of the bill:

First. That all kinds of butter, as well as the product heretofore known as oleomargarine, shall be classified as meat-food products and shall be subject to the provisions of the meat-inspection amendment.

Second. That the product heretofore known as oleomargarine and all kinds of butter, including renovated butter and adulterated butter, manufactured and prepared for, and sold or transported in, interstate or foreign commerce, shall be inspected as to their respective qualities with reference to their character, purity, and wholesomeness as articles of human food by properly designated officials of the Department of Agriculture, and all such products shall be properly labeled entirely under the supervision of the Department of Agriculture as to their true character and the inspection thereof.

That you may fully appreciate the necessity for this feature of my bill, I desire not to quote but to insert in the record extracts from the Twenty-fifth Annual Report of the Bureau of Animal Industry touching the tuberculosis idea.

(The extracts above referred to are as follows:)

TWENTY-FIFTH ANNUAL REPORT OF THE BUREAU OF ANIMAL INDUSTRY, DEPARTMENT OF AGRICULTURE.

THE TUBERCULOSIS PROBLEM.

The most serious problem now confronting the live-stock industry is tuberculosis. This disease has progressed to an alarming extent and is undoubtedly on the increase, especially in States where no adequate measures have been taken against it. The recent agitation in favor of a more wholesome food supply has drawn attention to tuberculosis, not only as it relates to the health of the consumer of meat and dairy products, but as it affects the business of raising live stock in an economic way. Judging from the meat-inspection statistics and from records of the tuberculin test, it is estimated that more than 1 per cent of the beef cattle, 10 per cent of the dairy cattle, and 2 per cent of the hogs in the United States are affected with tuberculosis. The financial loss that is chargeable to this disease among farm animals amounts to no less than \$23,000,000 annually. Both in the interest of the public health and for the financial benefit of stock raisers, it is time that more aggressive and systematic measures were taken to suppress and eradicate this disease (pp. 12 and 13).

In order to give general application to this plan of tracing the disease, it seems essential that the various States should empower their officials by law to require that shippers shall tag their live stock, especially cows, shipped for slaughter, in such a way that they may be identified and their origin determined (p. 13).

TUBERCULIN TESTING OF CATTLE IN THE DISTRICT OF COLUMBIA AND VICINITY.

From the beginning of the work in the spring of 1907 up to the close of the fiscal year, June 30, 1908, the bureau applied the tuberculin test to 2,468 cattle in the District of Columbia, Maryland, and Virginia, of which 387, or 15.68 per cent, reacted. Of the reacting animals, 126 were slaughtered under the bureau's inspection and in all but a single case the presence of tuberculosis was demonstrated on post-mortem examination. The diagnosis of the tuberculin test was therefore confirmed in 99.21 per cent of the animals slaughtered. Of the 126 animals killed under inspection, 94 were so very slightly affected as to be safely passed for food after removal of the glands or organs in which the lesions were found, while 32 were condemned (p. 27).

TUBERCULOSIS.

The testing of infected butter has been continued, and in the later experiments of this nature the conclusions reached through former work have been confirmed. Tubercle bacilli will retain their vitality and virulence while in butter under common market conditions for at least five months (p. 32).

TYPHOID BACILLI.

The viability of the typhoid bacillus has been investigated both in butter and in milk. On the one hundred and fifty-first day after the manufacture of butter from milk infected with typhoid bacilli, living colonies of these bacilli developed on plates

that were made from butter. This proves that typhoid bacilli will retain their vitality under these conditions for one hundred and fifty-one days, and that during this period of time these microorganisms are ready to multiply whenever placed in suitable environment.

The length of time that typhoid bacilli will remain active in milk under common market conditions far exceeds the length of time that it is ordinarily kept before being put to some domestic use. Examinations at repeated intervals showed that the organisms retained active motility for at least twenty days, whence we must conclude that milk offers an unsurpassed culture medium for the growth of typhoid bacilli, and that when once contaminated such milk continues to offer a menace to the people consuming it (p. 33).

TUBERCULOSIS.

Relative to butter, it was shown that tubercle bacilli may remain alive and virulent in ordinary salted butter fully one hundred and sixty days, or five and one-third months, and that at the end of three months they show only a doubtful reduction in pathogenic virulence.

A large number of samples of commercial or market milk from various dairies supplying milk to the city of Washington were tested in the course of the year, and something more than one sample out of every twenty was found to be infected with tubercle bacilli. It was also discovered that dairies which distribute milk infected with tubercle bacilli do so intermittently and not continuously or uninterruptedly. For example, one dairy tested on ten consecutive days, was found to be distributing infected milk on the second, third, and eighth days, and milk apparently free from tubercle bacilli on the remaining seven days. When this intermittent occurrence of tubercle bacilli in the milk from infected dairies is taken into consideration, we may reasonably conclude that the presence of infection in about 5 per cent of the samples of milk examined at the station is a much more serious condition than it at first appears to be. If it is necessary to examine from three to five samples of milk from a dairy to determine the fact that the dairy is distributing tuberculous milk, then the occurrence of tubercle bacilli in five samples among a hundred from 100 different dairies implies that from three to five times five dairies, or from 15 to 25 among the hundred, intermittently distribute tuberculous milk. This is very important, because the number of infected dairies, rather than the percentage of infected milk, determines the extent to which the public is exposed to virulent tubercle bacilli through the use of milk and dairy products.

In circular 118 it was shown that over 40 per cent of the animals in a herd of apparently healthy but tuberculous cattle were found to be passing tubercle bacilli from their bodies per rectum. These same cattle have now been under observation for about two years. With the exception of one or two, they have still the appearance of health, but the number passing tubercle bacilli per rectum has increased to nearly 90 per cent. The careful examination of additional cattle, apparently healthy but tuberculous, has confirmed the earlier conclusions regarding the dangerous manner in which cows that are not suspected to be tuberculous until they are tested with tuberculin may scatter tubercle bacilli (pp. 50 and 51).

THE ECONOMIC IMPORTANCE OF TUBERCULOSIS OF PRODUCING ANIMALS.

The movement in the last few years for a more wholesome food supply has resulted in drawing attention to the part played by tuberculosis as regards both health and economics. It must be realized that the exclusion of tuberculous meat and dairy products from the food supply means an appreciable reduction in the quantity of available food, with a corresponding tendency to an increase in the cost of necessities of life. The economic problem therefore concerns not only the stock raiser and the producer, but the consumer, which means practically everybody. No nation is so wealthy that it can afford to sacrifice year after year a considerable and increasing proportion of its food supply, especially when by proper means the loss can be reduced and in time prevented entirely. This is a problem which must be faced eventually, and the earlier this is understood the more easily it can be solved (p. 97).

THE TUBERCULIN TEST.

It is known that dairy cattle are more generally affected than beef cattle, as the tuberculin test has shown that from 5 to 25 per cent of the cows supplying milk to certain cities were tuberculous. For instance, tests made in 1907 on a large proportion of the herds supplying milk to the city of Washington showed about 17 per cent of the cattle reacting (p. 99).

THE AGGREGATE LOSS.

Taking into consideration the various items mentioned, the tribute which the United States pays each year to this scourge among its farm animals aggregates more than \$23,000,000.

Such a loss is too great, merely as a matter of economics, to be allowed to continue and increase from year to year. And when, in addition, we consider the bearing of animal tuberculosis on human health, it seems imperative that vigorous measures should be taken to eradicate the disease from our herds, especially when such eradication seems entirely possible and practicable (p. 104).

BENEFITS OF ERADICATION.

To overcome the great losses before mentioned is worth considerable effort and expense. The benefits to follow from the eradication of tuberculosis from farm animals are so great and so obvious that the necessary expenditures, even though they must be heavy, may be regarded as a highly profitable investment (p. 107).

THE RELATION OF THE TUBERCULOUS COW TO PUBLIC HEALTH. BY E. C. SCHROEDER, M. D. V., SUPERINTENDENT OF THE BUREAU EXPERIMENT STATION, DEPARTMENT OF AGRICULTURE.

The need for this inquiry is emphasized by the knowledge that the commonest and most important disease of cows is also the commonest and most important disease of mankind, and by the fact that, though the disease in question—tuberculosis—is one of the few infectious diseases to which widely different species of animals are susceptible, its commonest victims are persons and dairy cows.

As persons and dairy cows are the commonest subjects of tuberculosis, they are also the commonest sources from which tubercle bacilli emanate, and as the exposure of persons to persons, through the ordinary routine of life, and the exposure of persons to dairy cows, through the lifelong use of dairy products, are commoner and more direct and intimate than the exposure of persons to other possible sources of tuberculous infection, we may conclude that the two most important sources of tubercle bacilli, against which public health must seek to defend itself, are tuberculous persons and tuberculous dairy cows. Of these two sources the former is probably the more important, but only little can be said about it here, as the latter is the subject of this article, and the little that is permissible must be limited to the infection of dairy products when they are exposed to tuberculous or consumptive persons.

When we actually realize the truth about tuberculosis and the number of victims that it claims we are in a better state of mind to join those who may be classed as afflicted with phthisiophobia than those who seek to belittle the dangerous character of tuberculous individuals for their fellow-creatures. During 1908, according to the most reliable figures obtainable, 160,000 human lives were prematurely ended by tuberculosis in the United States alone, and this enormous number does not include the deaths hastened by tuberculosis but chargeable to other immediate causes. Every one of these deaths was due to infectious material that had its origin within and was expelled from the bodies of tuberculous persons and animals.

A clear conception of the danger to which public health is exposed through the use of food products derived from tuberculous dairy herds requires that we should have some knowledge of the following special subjects, which will be discussed in order: (1) The character of tuberculosis as a disease of cattle; (2) the manner in which tubercle bacilli are expelled by tuberculous cattle; (3) the general appearance of tuberculous cattle that expel tubercle bacilli; (4) how tubercle bacilli from cattle get into milk and other dairy products; (5) the virulence and vitality of tubercle bacilli in dairy products; (6) the proportion of tuberculous cows among those in use for dairy purposes; and (7) the frequency with which dairy products have been proven under existing conditions to contain tubercle bacilli.

COMPARATIVE MORPHOLOGY AND VIRULENCE OF TUBERCLE BACILLI OF HUMAN AND BOVINE TYPES.

They contained cultures of tubercle bacilli from human lesions that were morphologically and biologically bovine types, and in their summary of the investigations of others they show that bovine types have frequently been obtained from man and human types from cattle. These investigators after a prolonged study of the susceptibility of tubercle bacilli to modification draw the conclusion "that the mor-

phology of tubercle bacilli is their most variable characteristic." They successfully changed the morphology and also the virulence of bacilli in the course of their investigations and found it possible to reduce and to increase the virulence of tubercle bacilli for different species of animals.

The British Royal Commission on Human and Animal Tuberculosis concluded from its investigations that cows' milk containing bovine tubercle bacilli is clearly a cause of tuberculosis—and of fatal tuberculosis—in man, and that a very large portion of tuberculosis contracted by ingestion is due to tubercle bacilli of bovine origin.

SUMMARY.

We have seen that tuberculosis is the commonest disease of both persons and dairy cows, and that persons and dairy cows are its commonest victims; we know that dairy products are indispensable and that they are more commonly eaten in a raw state than other products from animals; we have seen that tuberculosis is an insidious chronic disease and that tuberculous cows often expel tubercle bacilli long before they show signs of their diseased condition; we have seen that milk is almost invariably contaminated with the material in which tuberculous cows must commonly expel tubercle bacilli from their bodies; we have seen that milk is so often infected with virulent tubercle bacilli that, unless we know it to be derived from cows that are certainly free from tuberculosis, it is not safe to use it in a raw state; we have seen that tubercle bacilli in milk transferred to the cream, butter, and cheese made from it, and may occur in these products in greater concentration than in milk from which they are derived; we have seen that an excellent medium for the preservation of the life and virulence of tubercle bacilli is found in butter by reason of its moist bland opaque character; we have been told that the medical profession is well-nigh unanimous in the view that tubercle bacilli from the bovine source in dairy products are a serious menace to public health; and we have seen that in our fight for the suppression and eventual eradication of tuberculosis we must seek to make harmless all the sources from which tubercle bacilli are expelled. Add to this that the available evidence regarding different types of tubercle bacilli shows that bovine types have been found in human lesions and human types in bovine lesions; that transition forms connect bovine types directly with human types; that the most variable feature about a tubercle bacillus is the character that is used to classify it as a special type; that tubercle bacilli of human types have been converted into bovine types and those of bovine types into human types; and that tubercle bacilli of the so-called bovine type are, as a general rule, more virulent than those of the human type for all animals, including man-like apes; and that the conclusion is almost forced upon us that the tuberculous dairy cow is, to say the least, one of the most important sources of tubercle bacilli with which we have to deal.

The commoner occurrence of tuberculosis in the lung than in other parts of the body should not encourage us to undervalue tubercle bacilli concealed in articles of food, as it has been shown that infection may penetrate to the lung as easily by way of the intestine as directly through the trachea and bronchi; in fact, a critical consideration of the two modes of infection—inhalation and ingestion—shows that the latter is in better harmony with known facts than the former.

Tuberculosis among dairy cows is so common and widespread that we can not hope to clean all dairy herds of the disease for some time to come; hence it is necessary, for the protection of health, to avail ourselves of the one expedient which is immediately at hand, and that is pasteurization. And pasteurization should not be restricted to milk, but all milk, cream, etc., used in the manufacture of butter, cheese, and other dairy products should be pasteurized unless it is obtained from healthy, nontuberculous cows that are stabled under hygienic conditions in an environment wholly free from tuberculous infection.

The elimination of tuberculosis from the dairy herd is urgently recommended, not only because the protection of public health requires it, but also because tuberculosis among cattle is a serious cause of pecuniary loss, so serious indeed that from the strictly economic point of view it must be regarded as the most important problem that those interested in animal husbandry can undertake to solve.

Having ascertained the grave and positive danger to man of tuberculous milk it becomes necessary to determine if tuberculous meat contains the infectious agent and if it can reproduce the disease in animals fed or injected with it.

Mr. LEVER. Think of the possibilities that uninspected milk and milk-food products offer for spreading typhoid and tuberculosis, and contrast these startling statements with the fact that not one ounce of all the millions of pounds of materials used in oleomargarine is permitted to go into that product until veterinary inspectors of the

United States Government have certified that they are free from disease, cleanly, wholesome, and produced under the most sanitary conditions.

Third. That all such products manufactured and prepared for interstate or foreign commerce shall be put up singly by the manufacturers thereof only in original packages of one-half of one pound, one, two, and three pounds each, and in no larger or smaller subdivisions, with such marks and brands denoting the character of the contents of each and every package as the Secretary of Agriculture shall prescribe; and that each and every such original package sold or offered for sale in interstate or foreign commerce shall bear the Government's inspection label "Inspected and passed," as provided in the present meat-inspection law.

Fourth. That the name "oleomargarine" be changed to margarine.

Mr. LAMB. Changed to what?

Mr. LEVER. Changed to "margarine;" and I will undertake to say why a little later.

The benefits to be derived from this measure are, briefly:

(a) The retail dealers will be enabled to sell to the consumer in the original packages prescribed by the Government exactly the kind of product for which he calls, and such product may be sold to the consumer in convenient, small, retail, packages, adapted in size and quality to the wants of the consumer, with full identification as to the character of the product—whether it be margarine, fresh creamery butter, renovated butter, or adulterated butter.

In other words, this section attempts to protect the public against fraud both at the hands of the butter people and at the hands of the oleomargarine people.

Retail dealers will further be enabled to guarantee the various packages as containing exactly what they are labeled to contain, and unscrupulous dealers will not be permitted to fraudulently sell, from large quantities in bulk, inferior and noninspected articles to their customers for superior and inspected articles.

(b) The consumers will be fully advised as to the character of the product which they purchase by the marks, brands, and labels upon the respective packages, and will know immediately by the presence or absence of the marks, brands, and inspection labels prescribed by the Secretary of Agriculture, whether or not the product which they purchase has been fully inspected by government officials. In other words, the consumers will know exactly what they are buying, which is not the case under the present law, owing to the lack of the original-package features in the oleomargarine law and the lack of both proper inspection and original-package features with reference to all kinds of butter. The consumers will be enabled to purchase packages of the inspected products in quantities adapted to their wants; that is, in one-half of 1 pound, 1, 2, and 3 pound original packages.

(c) By the removal of all taxes upon margarine or what has heretofore been known as oleomargarine, consumers will be enabled to purchase a pure, wholesome, and nutritious substitute for butter, fully identified as to its character, colored with harmless coloring matter to suit their fancy, the same as butter is now colored, at a price considerably less than that which they have to pay for good butter. Those who, for any reason, desire to purchase renovated butter or adulterated butter, fully identified as to its character, at a lower price, will be enabled to do so. They will also be enabled to avoid uninspected products which may contain germs of diseases such as typhoid and tuberculosis.

(d) The change of name from "oleomargarine" to "margarine" will better please many consumers and will especially please the foreign trade, because in those European countries where the product is manufactured and sold in large quantities, the word "margarine" is used, and the product is identified in its sale throughout a large part of the world as "margarine." This is important to exporters. The word "margarine" will also be a more convenient word for impression upon smaller packages put up by the manufacturer and will enable the Secretary of Agriculture to prescribe the use of the word in larger letters upon small packages than would be possible with the use of the word "oleomargarine."

Now, in conclusion, gentlemen of the committee, let me say that this bill—I repeat it—is not aimed at any particular industry, nor is it drawn in the interest of any special industry or section. It is built upon the theory that the people are entitled to get what they think they are buying—butter, if butter they want; margarine, if they want margarine. It is a pure-food inspection proposition, pure and simple at the same time, incidentally, but of great importance, an effort to lift an unwarranted tax from one of the most essential necessities of life.

Now, Mr. Chairman, I wish to apologize to the committee for taking so much of its time. This is a little out of place, I recognize fully; and to save time I will ask that I may insert certain statements from labor leaders, chemists, and the like, in the record. I thank you.

The CHAIRMAN. May I inquire, Mr. Lever, if the matter which you propose to insert will be duplicated, probably, by other testimony that may be brought out?

Mr. LEVER. I doubt if it will be.

The CHAIRMAN. Will you be kind enough to bear that in mind?

Mr. LEVER. I will, and if I find that there will be a duplication, I will take it out.

Mr. RUCKER. I would like to ask you a question. You want to change the word "oleomargarine" to "Marguerite," do you say?

Mr. LEVER. "Margarine."

Mr. RUCKER. I thought perhaps there was some particular reason why you had some sort of an attachment to that name.

Mr. LEVER. No; although that might be so, because I am a bachelor. [Laughter.]

Mr. FLANDERS. Mr. Chairman, how will those who are opposed to the measure know what is in the papers filed, so that they may know whether they will want an opportunity to answer them?

The CHAIRMAN. We hope to have the record of the hearings of to-day and to-morrow printed so as to be available at the next hearing. I should like to remark in this connection, Mr. Flanders, understanding as I do that you will be the spokesman at these hearings for the dairy interests, that at any time when a witness is on the stand and you desire to ask a question, you will be given that privilege. We are here to get information, and we realize that questions that you may ask, from your point of view, might probably bring out information from witnesses called for the other side that might not otherwise be brought out. The only limitation we put upon that is to ask that the questions be made as brief and direct as possible and that they shall not be used as a basis for an argument.

(The papers above referred to, presented by Mr. Lever, are as follows:)

STATEMENT OF PATRICK DOLAN, PRESIDENT OF THE UNITED MINE WORKERS' ASSOCIATION.

Mr. DOLAN. Mr. Chairman, the people whom I represent are somewhat interested in this measure, as they are all working people. Representing them, I have come here and have prepared a short statement, which I will read:

The question involved here, so far as it affects the section of country from which I come (western Pennsylvania) and the people I represent, despite the verbiage of the bill, seems to be whether or not white oleomargarine is good enough for the working-man and consumer, whose needs demand a cheap and wholesome article. In former times, before the general introduction of oleomargarine and the manufacture of creamery butter, the grocers and merchants in our section used to have their regular butter day. It might occur on any day with different merchants, but when that day was set by any one of them it was an immovable feast—but such a feast. Almost any of us can call to mind the strange collection of colors and shapes, accompanied by as many different and distinct perfumes as ever emanated from the ancient and distinguished city of Bagdad, the source of a thousand and one individual odors. The few rolls of really palatable and passable butter were seized on the arrival of the consignment and stored away for the pet customers (who didn't mind the price), and the balance was spread out in that portion of the establishment known as the butter counter for the inspection and sampling of those who were not so fortunate as to be able to pay the long price or to figure high in the affections of the merchant.

But this is all gone in our markets, I find, except in a very few isolated instances. Two things seem to find sale, namely, first-class creamery butter and oleomargarine. The butter at present sells for from 30 to 35 cents, the oleomargarine at from 2 pounds for 25 cents to 20 cents per pound; and while the latter all seems palatable, I have found a marked difference in the quality, which to me accounts satisfactorily for the wide variance in price, viz, from 12½ cents per pound to 20 cents per pound.

That some oleomargarine may be sold for butter I do not doubt, but I am convinced that it is trifling; and to propose such a measure as this as an alleged remedy for that is unfair, to my mind. This bill does not pretend to remedy an evil, but to exclude and prevent the sale of a healthful product—which seems to have been the real spirit of all the laws on the subject.

I am convinced that the true intent of the pending bill is to make a market for the axle-grease portion of the butter product, which oleomargarine, by reason of its cheapness and wholesomeness, has run out of our section, doubtless into the kettles of some soap works, which is the sphere of its real fitness.

In this age of progress let us not go backward, to say nothing of the injustice it will work to our people. What moral right have these butter people to ask you to pass a law that will compel those of us who have only 10 or 15 cents to pay for a pound of some spread for our bread to either use white oleomargarine, ghastly in its unattractiveness, or to go back to the rancid product they foisted on us in years gone by? There is no interest save theirs which would have the sublime nerve to ask such a thing, and none but theirs which would have influence enough to half get it, as they have done. It is this sort of abuse of legislative and governmental power that has always been a menace to republics since republics were, and this sort of folly that has wrecked and ruined them—since history proves that they do not always last.

I hope that this committee and the Senate will defeat this measure. It would be a step in a dangerous direction. Many of our individual States have already covered themselves with disrepute by passing crushing and unjust laws, dictated by this coming butter trust, which seeks to frighten and has frightened legislators by bawling "the granger vote," even to the extent of overlooking the rights of the consumer, and the fact that we are one people and entitled to justice.

The present United States oleomargarine law is unjust, as the 2 cents per pound tax comes off those least able to bear it—the poor. The man who has but 10 or 15 cents to pay for a pound of oleomargarine can ill afford to pay a tax on it of from 10 to 20 per cent; and since that is the case, how can he afford to pay about 100 per cent, as proposed by this bill, and at the same time have his poverty legislated before his eyes and those of his family every time he sits down to a meal? We of western Pennsylvania understand this, and oleo is as firmly placed and as staple with us as sugar. To say that oleo could be sold for butter, to any extent, seems to us preposterous. I am really of the opinion that not one housewife in one hundred in our section could be so misled. Even if such were the case the logical remedy is simple. It is not found in this miscarriage of justice known as the Grout bill, or in legislation off the usual lines, which is invariably proposed by butter interests; but in the just and common-sense ideas embodied in the Wadsworth bill, which was turned down by the

House, proving conclusively that what was sought was not to honestly regulate the industry, but to destroy it.

Now, Mr. Chairman, the reason I am interested in this bill is because I used to be in the grocery business, and I sold oleomargarine in large quantities to our people. They knew that they were buying it when they got it. It was cheaper, and as good in many instances as the creamery butter that I used to sell and paid a high price for and had to get a high price for from the consumer. I know that our people would be placed at a great disadvantage if this measure were passed.

The ACTING CHAIRMAN. Let me ask you a question, Mr. Dolan. Do you use the article yourself?

Mr. DOLAN. Yes, sir; every day.

The ACTING CHAIRMAN. What objection have you to having it of a color easily distinguishable from the yellow color of butter? What objection would there be to that?

Mr. DOLAN. Well, I will tell you.

The ACTING CHAIRMAN. In other words, do you eat it on account of its taste and its nutritious character, or simply on account of its looks?

Mr. DOLAN. I eat it because it is wholesome, and cheaper than the other article for me to provide for my family.

The ACTING CHAIRMAN. But its color has nothing to do with its wholesomeness or palatability, has it?

Mr. DOLAN. Well, the point about the color of it, Mr. Chairman, is this: People, while they are poor, have some pride; and they do not like to go into a store among other people who have money and buy this article, because everyone knows that it is oleo they are getting when they purchase it.

The ACTING CHAIRMAN. They have a pride, usually, in getting what they want as cheaply as possible.

Mr. DOLAN. Yes; and I do not think that that should be any reason for having this color taken out. You might as well pass a law to say to men if they were going to eat candies, they would have to eat white candies only. Some people prefer pink. And so it is with whisky. When it comes from the still, the worm, it is white; and then it is afterwards colored, because people like it that way. I would rather have it that way than have it white. That is a plain statement of the matter.

Our people, Mr. Chairman, are against the passage of the measure. I represent over 40,000 miners and their families, and I know from the sentiment in other sections of the country to which I go, from talking to people who are interested in our organization, that they do not want to be deprived of the ability to purchase this wholesome article of food. If it is not made in a wholesome way, then they do not want it; but if it is just as good to them to spread their bread with as 35-cent butter, they do want it. And if this measure passes, the chances are that butter will go up to 50 cents, and poor people will not be able to purchase it at all.

STATEMENT OF JOHN PIERCE, REPRESENTING THE AMALGAMATED ASSOCIATION OF IRON AND STEEL WORKERS.

The ACTING CHAIRMAN. Are you the president of the Amalgamated Association of Iron and Steel Workers, Mr. Pierce?

Mr. PIERCE. No; I am one of its trustees. On last Saturday we had the regular quarterly meeting of our advisory board, and they selected me to come down here and represent the association. As you know, all of our people are workingmen, too. They all work in the rolling mills.

When my attention was first called to the Grout bill by newspaper comment, after its presentation in the House of Representatives, I had no idea that such an infamous measure would ever receive serious consideration, much less pass that body, as it has done. The interest of the consumer seems not to have been considered at all, the sole idea apparently being that the creameryman and dairyman should have a monopoly of the entire market for their wares, by rendering a competing product so unattractive that nobody would care to purchase it. Do you think that all the work ingmen of western Pennsylvania or of these United States (a portion of whom I represent in the Amalgamated Association of Iron and Steel Workers) can afford to pay 35 cents per pound for creamery butter, which is the present price for the first-class article in Pittsburg? Everyone, I think, will admit that all can not.

If this bill passes, what position are we in? On examination we find that we will have three options, viz: (1) Creamery butter at 35 cents, if the conditions are no worse; and I am not sure but that the passage of this bill may make it 50 cents per pound. (2) Colored oleo at 25 cents per pound, on account of the 10-cent tax. (3) White oleo at 15 cents.

Colored oleomargarine is at present retailed at from 12½ to 20 cents per pound. On investigation I am satisfied that most of our people are paying about 15 cents per pound for it, and I can not admit that those who buy it can afford to pay more. I therefore arrive at the conclusion that they must either find 10 cents per pound more

to pay this proposed robbery (for I can not dignify it by the name of tax), or buy and eat white oleomargarine. And this to satisfy the greed of the manufacturers of butter, who think that white oleomargarine is good enough for those who can not afford to pay 10 cents additional for yellow, or the 20 cents or more additional for creamery butter, or use the off grades of butter now unsalable as food!

Shall those thus defrauded of what should be their inalienable constitutional right be compelled either to wear in their homes, on their very tables, flaunting before the eyes of their children and of those who may share their board, a badge of their poverty, and an emblem of their inability to pay a legalized robbery; or, on the other hand, to contribute from their meager board to the hellish greed of the butter interests, of whom it has been doubtless truly said that they seek to follow the fashion and form a trust, but are deterred by the existence of oleomargarine?

I believe that every pound of creamery butter to-day is artificially colored. I have been told so by dealers and chemists; and it puzzles me, as a layman, where they get the basis or reason to ask for the exclusion or taxing of color in oleomargarine, when they use it ad libitum themselves.

It has been said with truth that some oleomargarine has been sold for butter. I do not defend this. Every honest man would condemn it. If there are not laws to prevent it, there should be and would be, and they would be enforced; but the dairyman and the butter interests have never sought to have passed and enforced anything like that. They seize on every legislative opportunity to try to wipe out the sale of oleomargarine—not to regulate it, but to tax and legislate it out of existence. Have not a dozen States, through the immense influence of the butter interests, and their misstatements, in times past, enacted laws utterly forbidding the manufacture and sale of oleomargarine within their borders on the lying and shallow pretense that it was inimical to public health? And this claim has been seriously advanced, despite the fact that scientists to a man have declared it just as wholesome as butter, and Justice Peckham, of the United States Supreme Court, in rendering a decision said it was a "notorious fact" that it was a healthful article.

New York had such a law on her statute books for years, as had Pennsylvania from 1885 to 1899. Now we have a color law. Our first statute was more commendable than the new one is, as there could be no mistaking its frank intent; but the second, despite its pretensions, would be as effective an exclusion as the first, were it possible to carry out its provisions, which are so unpopular in some places that a jury can not be secured to convict anyone under it.

To affirmatively recommend and pass this bill would be a crying injustice to the workingman in my section, and to consumers everywhere. Oleomargarine, under its own name, should have the same freedom in our markets as any other article of commerce; and if legislative bodies will ignore the greed of the self-seeking butter interests and pass stringent laws regulating its sale for what it is, and not hampering or prohibiting its manufacture (as has been the sole intent of every law ever proposed), then all this fuss and feathers will cease.

Now, Mr. Chairman, there are a good many of our people who make pretty good wages, and of course they can buy butter; but the majority of them make small wages now, especially since we got into this trust business. I know there are lots of men who do not like to buy this white oleomargarine, because it looks more like lard than anything else. It does not look like butter at all. Why should they be made to pay 10 cents a pound more because they get butter that resembles country butter, and looks a little better on the table? That is why I am here to oppose the passage of this bill. It is for our people alone, for of course I do not know much about the butter business myself.

THE ACTING CHAIRMAN. It is a question of family pride, you think?

MR. PIERCE. I think it is, yes; for I tell you, I would not like to eat it white.

THE ACTING CHAIRMAN. You think that if a person goes into a store to buy this article, he does not like to be heard calling for oleomargarine?

MR. PIERCE. That is right.

THE ACTING CHAIRMAN. But, from all the testimony, I understand that the coloring matter adds nothing to the nutritive or palatable qualities of either oleomargarine or butter.

MR. PIERCE. Oh, no; it simply makes them look better. And why should they pay 10 cents a pound for making a thing look a little more palatable? Even if it is not, it will look more palatable.

I know that they don't like this 10-cent business; and they want to buy oleomargarine that is colored. They like that style of it; and they don't like to have to pay this extra 10 cents, or 8 cents, or whatever it is going to be.

Now, that is why our people object. I think the cheaper you keep this oleomargarine the cheaper we will get our country butter, too. That is the way I look at it. If you raise this tax to 10 cents, don't you think the farmer will run his butter up, too?

The ACTING CHAIRMAN. Well, I will not undertake to go into that question.

Mr. PIERCE. I don't know, either; but I just think that way about it. I am looking at it for my own sake there, because I don't want them to raise the price of butter any more. I think 35 cents a pound for butter is enough for anybody.

The ACTING CHAIRMAN. That will do, so far as the committee is concerned, Mr. Pierce.

STATEMENT OF JOHN F. McNAMEE, VICE-PRESIDENT AND CHAIRMAN LEGISLATIVE COMMITTEE COLUMBUS TRADES AND LABOR ASSEMBLY, COLUMBUS, OHIO.

Mr. McNAMEE. Mr. Chairman and Senators, it has not often been my privilege in the capacity I occupy to appear before a committee representative of so dignified a body as the Senate of the United States. I am not a manufacturer of oleomargarine, nor, in fact, a manufacturer of anything. I bear from the Central Labor Union of the city of Columbus, Ohio, officially known as the Columbus Trades and Labor Assembly, credentials which, with your permission, I will read to you:

"COLUMBUS, OHIO, January 5, 1901.

"To whom it may concern:

"This is to certify that the bearer, Mr. John F. McNamee, vice-president of the Columbus Trades and Labor Assembly, is authorized and empowered by said body to exert every effort and use all honorable means in accomplishing the defeat of a measure now pending in the United States Senate, and known as the Grout bill, the object of which is to destroy a legitimate industry in the interest of its competitors, said Grout bill being regarded by said Trades and Labor Assembly and all it represents as a gross injustice, class legislation, an invasion of citizenship rights, and a serious menace to the best interests of all citizens, particularly those in moderate circumstances.

"Any courtesies extended to our representative, Mr. McNamee, will be fully appreciated and remembered by the Columbus Trades and Labor Assembly.

"[SEAL.]

"FRANK B. CAMERON, *President.*

"WILLIAM F. HAUCK, *Secretary.*"

Mr. McNAMEE. Gentlemen, if the labor organizations of the United States were possessed of sufficient capital to enable each one of them to send a representative here to convey to you their sentiments regarding this Grout bill, I assure you that you could not possibly conclude this hearing before the next presidential election. This letter of introduction which I have presented represents but faintly the bitter antagonism which prevails in the ranks of organized labor to said measure.

When any class of men are organized, matters bearing upon their interests generally receive full and exhaustive discussion in the organization representing that particular class. And so it is with the Grout bill. In nearly every labor organization in our country it has been up for discussion; and I myself have heard iron molders, blacksmiths, electrical workers, and members of almost every craft discuss the matter, making such familiar use of technical chemical phrases as to impress one who did not know what their occupation really was with a belief that they were either chemists or deep amateur students of that profession or art.

The members of organized labor are thoroughly familiar with all of the phases of this bill. They speak about the chemical analyses which have been made of oleomargarine by official chemists, and they discuss all of the various components and ingredients of the product with almost as much familiarity as the manufacturers themselves are capable of doing. So I say that they are wide awake to the necessity, in the protection of their own interests, of having the bill defeated. Not only that; but as patriotic American citizens they feel deeply the indignity to which our legislative bodies have been subjected by this attempt to utilize them for the promotion of the interests of certain individuals and corporations in violation of every sense of right and justice and at the expense of the constitutional prerogatives of other citizens. They feel that the legislative bodies of some of our States and the Congress of the United States have been insulted by this attempt to utilize them as tools for the protection of certain interests which can not sustain themselves against competitors.

Senator ALLEN. Then your contention is that the man of moderate means has a right to purchase an article which is cheaper than genuine butter, if he desires to do so, and use it?

Mr. McNAMEE. My contention is this, Senator: That we are desirous of perpetuating the employment of the men who make the butterine, although we may not know to within five or six how many men are so employed. But we are mainly desirous of perpetuating the existence of this product, with which we have had amply sufficient experience to know that it is healthful, wholesome, and palatable.

Senator ALLEN. Then the whole thing is summed up in this one remark—that the laboring people whom you represent are desirous of having the right to purchase a product that is cheaper than butter if they desire to do so?

Mr. MCNAMEE. Not necessarily to purchase a product that is cheaper than butter; no, sir.

Senator ALLEN. Well, I should not say “cheaper,” but they have a right to a choice between the two?

Mr. MCNAMEE. They should have a right to a choice between the two.

Senator ALLEN. That is your contention?

Mr. MCNAMEE. That is the substance of it, Senator; and, moreover, it is a fact that if the manufacture of butterine is prohibited, the butter manufacturers, whether they are individuals or a combination of individuals formed for the purpose of monopolizing that particular industry, will have the opportunity of manufacturing almost any sort of product they please that can be used as butter generally is, and of charging for that product any price they please. We hold that if the manufacture of butterine is prohibited, then men using butter or using a spread of that kind for their bread who desire to use it will then, as now, have the choice of either buying it or going without it; and the chances are that the price will be so high that a great many such citizens in moderate circumstances will be compelled to go without it. On the other hand, if the manufacture of butterine is perpetuated, it will equalize the butter market.

Senator ALLEN. The competition will bring down the prices, of course.

Mr. MCNAMEE. And it will keep butter within the reach of those who do not care to use butterine.

Gentlemen, there are hundreds of thousands of our citizens in moderate circumstances who are now looking to the United States Senate for protection against the perpetration of such a gross injustice. They are depending absolutely upon that sense of justice, that sense of honor, fair play, and conservatism which has always characterized this body to protect them from this, one of the most culpable violations of their rights which any individual or combination of individuals has ever attempted to perpetrate upon the American public. They are looking to this body with the firm hope that its traditional love of justice will prevail and predominate in this crisis. Should this measure become a law, arising from the mists of the near future there will come a monster into whose insatiable maw the contributions of our citizens shall continually flow, and whose appetite shall be increased by all attempts at its gratification. This monster we have all, in our apprehensive conviction of the certainty of its existence, learned to regard as the creamery trust of the future—the combination of creamery interests into one great organization, which shall monopolize the manufacture, not only of the food product known as butter, but of everything of that nature. That octopus is now being conceived. If the United States Senate should consent to the passage of a bill so outrageously unjust as this one is, then its birth will have been accomplished.

I am not an attorney and have never had the advantage of studying law. My intercourse with the world has been principally upon the deck of a locomotive. But by virtue of that instinctive sense of justice, that untutored, instinctive, layman common sense constituting the jury feature of and recognized as being as essential in the maintenance of our common courts as is the learned judge on the bench—by that instinctive sense of right I can not but realize that the passage of this bill or the establishment of a law of this kind is class legislation. I can not as a common, everyday citizen see it in any other light, and I am satisfied that the Supreme Court of the United States will take the same view of it that my colleagues and I have taken, and there is no question but that if this bill becomes a law it will meet the same fate that the income-tax bill has met. If the income-tax bill has been declared to be class legislation by the Supreme Court, I can not see how that court can hesitate to place this in the same category.

Not only that, but a precedent will have been established which must either be sustained or subject some of our honorable Congressmen to submit to the charge of inconsistency. You will have every corporation which has a competitor, a small competitor, that it wants to crush, coming here to the United States Congress and trying to get it to enact legislation based upon one pretext or another, none of which can be more flimsy than the alleged justification upon which the passage of the Grout bill is sought.

In contending for the defeat of this measure I do not make the claim that wage-earners are all poverty stricken—not at all. There are many wage-earners who are in very comfortable circumstances. But even they shall suffer by being compelled to pay an enormous tribute to the god of monopoly by virtue of the existence of the institution of which I have spoken, which will be as sure to arise upon the destruc-

tion of this industry as the sun will upon to-morrow morning. The poorer classes being compelled in such event to go without a material of the kind altogether, they will simply have to eat dry bread or use some of this glucose of which some of our dairy and food commissioners in some of our States, so industrious in the endeavor to destroy this legitimate industry, permit to remain upon the market.

Now, we can not see that there is any justice whatever in placing any tax upon oleomargarine. Heaven knows that its manufacture is already sufficiently restricted and that it is an utter impossibility, under the stringent laws which exist in almost all of our States regulating its sale, for any deception to be practiced therein. And I want to assure you, gentlemen, that if any deception in this connection should be attempted in our part of the country it would be, and often is, in undertaking to palm off inferior butter for the product known as oleomargarine. I am myself a constant consumer of the article, and I propose that it shall be continually used by my family, because I know, and so do all of the members of organized labor who have listened to the discussions relative to this product in their various unions, that it is absolutely free from all disease germs; that the process of its manufacture is such as to destroy all the bacilli of tuberculosis and various other disease germs that exist in the cow and through the medium of butter consumption are conveyed to the human system, and that butter is not subjected to any process which will eliminate that element of danger.

The CHAIRMAN. If that is so, would you not use it if it were of its natural color?

Mr. McNAMEE. Well, I will tell you, Senator, if, in eating a nice ripe apple, it were harmlessly colored green, I would not eat it with the same relish that I would if it bore a nice natural rosy color. In the same way we from our childhood have been used to eating butter, and in a great many instances have relished it. Now, if we are presented with a white product, even though we are convinced that it is as good and as wholesome as butter, I say to you that it is impossible for us to relish it as much as if it bore the proper color.

Now, I can not see why, when this coloring matter is absolutely harmless, and at the same time makes the product attractive and appetizing, the Congress of the United States should say to the citizens of the United States: "You shall not enjoy that advantage; you must eat it white." We say, "Why?" "Well, because we say so." "But is there any particular harm in eating it if it is colored with a harmless and wholesome coloring matter?" "No; there is no particular harm in it; but we want you to eat it white. For reasons we do not care to explain, the future welfare of the nation depends upon people eating this product white."

Gentlemen, I can not see any argument in favor of compelling us to eat it white, if we prefer to eat it yellow, as long as it will not injure our health.

For example: Suppose I, when working in my capacity as locomotive fireman, come in from a hard run, and there are two tables set—one a bare board, greasy and black, such as our oil cans temporarily rest upon in the oil room; and that is laden down with the most attractive and luscious viands. Suppose that on the other side there is a table with a nice white cloth on it, glistening silverware, sparkling water in clean glasses, clean cups for the coffee, etc., but the food is not up to the standard of that which is resting upon the table of inferior appearance, and I, being very hungry, have a choice as to which table to eat from. Why, I would most certainly go to the clean table and eat a much heartier meal, and a meal that I can digest better, notwithstanding the inferiority of the food. There is no question, gentlemen, but that the appearance of the food we eat has a great deal to do with it, and also with the relish we may experience in consuming it.

But, speaking about the tax on oleomargarine, I can not, nor can any of my colleagues, understand why there should be any tax upon it. We have laws in Ohio regulating the closing of saloons at certain hours on week days and all day on the Sabbath. Quite a large number of saloons violate these laws, yet I have never heard of legislation being attempted for the abolition of the saloon business in Ohio. They remain at the old stand, and do business right along, although hundreds and thousands of our good citizens are clamoring for their abolition, or for the enforcement of those laws. We have in the United States a product known as whisky. The Government has exerted all of its powers to try to enforce a certain tax known as the internal-revenue tax upon the manufacture of that product. But we all know that there are still illicit distilleries in operation. We all know that at the present time there are being manufactured large quantities of whisky from which the Government does not derive one cent of revenue. Yet the Congress of the United States has never undertaken to enact legislation abolishing the manufacture of whisky.

Some of our ambitious officeholders in Ohio—Brother Blackburn, for instance, or his attorney—tell us that because it is difficult to secure convictions under the existing laws we should have legislation enacted which will absolutely prohibit the manufacture of this article. It would be just as sensible for a man to say that as humanity

is liable to commit murder through the possible moral perversion of one or two or three of its individuals in each community a proper preventative precaution to take would be to annihilate humanity altogether. There is just as much sense, gentlemen, in one argument as there is in the other. And I want to say to you that the men who constitute organized labor, the men who are sufficiently appreciative of the necessity of organization as to band themselves together for the protection of their own interests, are also sufficiently intelligent to appreciate thoroughly and fully the injustice of this attempt to abolish this industry and the nonsense of the arguments which are produced in support of that attempt.

I have been speaking about members of organized labor. I will say that there are hundreds of thousands of wage earners who are not organized, and who have not had the same opportunity of investigating the various phases of this controversy that the men have had who meet in their lodge rooms and local union halls, and give it full and intelligent discussion. These men are not yet aware of the danger which menaces their future interests. But whenever, in the very improbable event of this bill being passed and sustained by the Supreme Court, these men are informed by their various grocers, "You must eat this product white," you will hear a protest from all over this country that will certainly demand your attention, gentlemen. There is no question about it. Why a man who from choice or necessary uses butterine should be compelled to eat it white, is something that he can not understand, and is something that no other good citizen can understand, and no living man can satisfactorily explain, so long as the coloring substance which has made it heretofore attractive and appetizing is in itself not only not deleterious to health, but wholesome and good for human consumption.

To my personal knowledge, much of the butter that is presented upon the market is made and kept in bedrooms. There is no question about it. It is the easiest thing in the world to prove. A trip into the country is all that is necessary.

We all know that there are not many health officials out in the country, and that the vigilant eye of the sanitary officer is not watching the manufacture of this butter. And we all know that people will get used to almost anything. It is only necessary for them to be confronted with the necessity of taking such a course temporarily, and not being in a position to experience any of the disadvantages of that particular method they can not see why they should discontinue it. Consequently, in a great many instances, butter is made amidst environments that would not be tolerated for a moment were it known to the proper health authorities.

Senator ALLEN. Excuse me for interrupting you to make a suggestion. My idea is that the butter made by the farm wives is superior to all other kinds of butter.

Mr. McNAMEE. I know, Senator. But you will pardon me if I suggest that farm wives differ in their habits, however.

Senator ALLEN. Yes; that is true, of course.

Mr. McNAMEE. And while there may be a great many farm wives, and while I will admit that there may be a majority of farm wives, who understand the proper method of manufacturing butter, I desire to say to you that it has been my personal experience that there are a great many farm wives who do not understand how to make butter properly, and if they did understand it, butter used in general commerce would be more easily consumed than it is at present.

Take it among us railroad men, for instance. When a conductor goes out on a run, as we call it (it is called a trip by the general public), he takes along with him enough food to last until he gets back home. In his basket he carries a certain amount of butter. I remember, before the use of oleomargarine became as general as it is now, the complaints that these men used to make about butter getting sour. The heat of the caboose would cause it to become rancid and unpalatable in a very short time, and in a great many instances they would simply have to throw it out. But since the use of oleomargarine has become general, these men, without an exception, take it along with them on their runs, and they never have any complaints to make about it.

Now, I speak from practical experience, and I myself, when going on a long run, have taken with me a certain amount of it in my dinner pail. We used frequently to fix things so that we can make tea or coffee, or something of that kind, and try to have a hot meal when we are out on the road. I am not at the present time engaged in railroad service, but I have been until a comparatively recent date. Eight or nine of the best years of my life have been devoted to it. And my experience is that the introduction of butterine has been a boon to the men who want something that is healthful and palatable in the way of a spread for their bread—men who are compelled to take it along in their lunch pails as these men are, and to use it whenever the necessity for its use arises.

There are a great many members of organized labor who are familiar with the methods made use of in the manufacture of oleomargarine. They have visited these factories. They have noticed that without exception they are spotlessly clean and

are kept up to that standard. They know that this product is heated to such a degree as to preclude the possibility of any disease germs remaining in it. Chemists have proven that such is the case, and the members of organized labor are thoroughly satisfied that there is absolutely no danger of the spread of disease or of contracting any disease from its use. On the other hand, it has been clearly demonstrated that in a great many instances cows which yield butter are afflicted with consumption. The germs of consumption exist in them, and they will necessarily get into the product known as butter. Now, of course, there are lots of people who can not contract consumption, as the condition of their system will not permit the growth of the germs, but there are hundreds of people who are predisposed to it, and as soon as such persons consume butter of the kind I have named the germs commence to develop in them, and, as a consequence, hundreds and hundreds of our citizens are brought to premature graves through this dread disease.

Now, gentlemen, I want to state to you, upon my honor as a man and as a representative of thousands of members of organized labor, who have empowered me to come here and in their name and in their behalf to protest as vigorously as it is possible for me to do against the enactment of this law, that the people in the section of country from which I have come insist, as a protective measure, upon seeing the proper stamp is upon the paper or package inclosing the oleomargarine that they buy, so that they can be sure it is oleomargarine, and so that they shall know that no deception is being practiced upon them.

Why talk about substituting oleomargarine for butter? The danger exists now in the other direction. That is absolutely true. There is butter at present being sold, or at least on the market, that is utterly unfit for use, unfit for human consumption; and when our citizens, knowing what they are purchasing, desire to purchase a certain article of food in preference to some other article which is not, in their estimation, just as good, and when the article which they prefer is in no sense injurious to their health, I can not see nor can anyone else who looks at the matter properly or studies the question thoroughly conceive how it can in any sense be a province of government to say to them, "You shall not use it, or you shall use it only under certain conditions."

The CHAIRMAN. If they prefer oleomargarine, and wish to have proof that it is oleomargarine, why would they not prefer to have it in its natural color, so that no further proof would be required? That would settle it.

Mr. McNAMEE. Why, Senator, my answer to your last question would also answer this. They have been used to a certain color. They have become accustomed to consuming this product colored as it is at present. Now, as long as they prefer to use it under that color, knowing what it is composed of, knowing what its ingredients are, where is the justice or right or sense of saying to them, or wherein is it within the province of government to say to them, "You shall not be permitted to use it colored in this way; you must use it white?" The same old question comes up over and over again—"Why?" "Because the Congress of the United States says so." "But why does the Congress of the United States say so?" etc.

The gentlemen defending the butter side of this proposition would be in the same position then that a certain farmer, a member of the agricultural committee of the Ohio house of representatives, before which body I appeared on behalf of the Columbus Trades and Labor Assembly as chairman of its legislative committee, who said to me, "What will we do with all our cows if you fellows are permitted to manufacture and use all the oleomargarine you want to?"

Just as I told the gentleman at the time, if each of the farmers present had a quarry upon his property, they would probably consider themselves justified in coming to the Ohio legislature as representatives of that body, and endeavoring to enact a law prohibiting the manufacture of brick. Why? Simply because it would interfere with their quarry industry and curtail the sale of stone for building purposes.

I can not see any other argument in support of the Grout bill; and there are thousands and hundreds of thousands of our citizens who are in the same unfortunate plight as I am at the present time.

There is no question, gentlemen, but that the object of this Grout bill is not the protection of the public in general, but the abolition of the oleomargarine industry. This tax is not a reasonable tax. It is a prohibitive tax. There is no question about that. Put 10 cents per pound additional tax upon butterine, and if its use is continued who will pay that extra 10 cents? The consumer will pay it—no one else. Who is at the present time paying the two-cents-per-pound tax which our paternal Congress has placed upon this product? The man who earns a dollar and a quarter per day; the railroad man who goes out at the risk of his life to earn a living for himself and his family; in short, the citizens who consume the oleomargarine are at present paying this two-cents-per-pound tribute to the existence of this already unjust law. As soon as this tax was imposed the price of the product to the consumer advanced 2 cents per pound and has remained so ever since.

I have here with me a pile of protests coming from organized labor. Organized labor, being familiar with the danger which confronts its interests, has taken advantage of the opportunity which that familiarity gives it to protest before the bill is passed, and, if possible, by such protest, to prevent its passage. But the thousands, the hundreds of thousands of men who are not organized can only protest (by virtue of the fact that they are not organized) against this measure after they become its victims. Then they will protest, as all unorganized individuals generally do.

A great many people seem to think that the consumers of oleomargarine regard its use as a disgrace or as an evidence of impoverished circumstances. This is not the case, gentlemen. I myself know of a great many people in very good circumstances who use it from choice. Some of our best families in Columbus use it from choice. I will venture to say that I could secure from a great many members of our board of trade in Columbus, with many of whom I am personally and intimately acquainted, statements to the effect that oleomargarine is constantly consumed on their tables. It is no evidence of penury, and consequently it is no disgrace for any man's child, or wife, or servant, or messenger to go away from the grocery bearing in his hand, for consumption by the family, a package of this oleomargarine, stamped as oleomargarine. And it is no disgrace for such an individual or householder to go into the grocery and before, or in the presence of, a great many other people to say, "Give me a pound" or "two pounds of oleomargarine; and let it be stamped, so that I shall know it as such." And our officious incumbents of certain state positions know this as well as they know they are living.

This precaution has become almost unnecessary now, because a great many, and in fact nearly all of our grocers have become aware of the necessity of giving people what they want; and in a case of this kind 90 per cent of our people, I will venture to say, want this product. If the product should become inferior, or if it should be adulterated, no one would detect the fact more quickly than the intelligent consumers; and at the present time it is to the advantage of the oleomargarine manufacturers that the general public know that they are buying oleomargarine, because, as I have said, it is preferable to butter. Any deception that might be practiced would work a great injury to their interests, simply because the people want oleomargarine and ask for it.

I will state, gentlemen, from practical experience and from intercourse with the general public in and around Columbus, Ohio, that it is the general impression of the people that this bill can not get through the Senate of the United States. In conversation with a great many citizens I have heard them say:

"There need be no fear of that. Congressmen have motives of their own in sustaining such a bill—they can not consistently avoid doing so; but Members of the Senate need not entertain any such fears. There is no possible danger of the bill getting through the Senate. The Senate is composed largely of men who have graced judicial benches, of the most prominent and learned citizens of our country, of men who have a proper appreciation of justice, and those men will not for a moment tolerate any attempt to enact a law of this kind, which upon its face is so grossly unjust and so apparently an attempt to utilize their body for the promotion of private interests."

As I was coming away from Columbus the other morning I passed a blacksmith shop. There were brawny horseshoers in there, three or four anvils ringing. They hailed me, called me in, and said:

"Off for Washington, Mac? Yes; going at 11.35. Well, good luck to you, boy. God speed you. We all hope you'll do good work for us up there. Do what you can to keep that bill from passing. You tell the Senators up there that if they need any further proof of the truth of the statements you make, we'll all write them a letter. We'll block the mails if necessary. All they've got to do is request it, and we'll give them practical proof, in our own handwriting, over our own signatures, what our sentiments are."

And every one of those men shook hands with me most cordially, most enthusiastically, and expressed an earnest and sincere hope that my mission here would be successful.

I honestly wish it were possible to convey that scene from Columbus to the floor of the Senate of the United States when this bill is up for discussion—that is, if it ever does come up for discussion, and I sincerely trust that it will not. In fact, I am confident that it will not. I am confident that this committee will take proper steps in regard to it. But if they could only witness that scene it would need no further argument on my part to convince them of the sincerity of the masses of workingmen in demanding its defeat.

Senator ALLEN. I think you had better file the papers you have there, which you desire to present to the committee, without reading them. They are too voluminous to read. They will all be printed and put in the report.

Mr. McNAMEE. With your permission, Mr. Chairman, I would like to refer to some of the points contained in some of these resolutions, and whenever I have taken up too much of your time, I will very gladly yield to a suggestion to quit. But as long as you decide to tolerate me I would like to refer to some of the points in these resolutions.

Here is an expression from one of the largest representative labor bodies in the United States—the Chicago Federation of Labor—and here is what they say relative to the tax.

"We believe the efforts to place a tax of 10 cents per pound on colored butterine is inspired by selfish motives, so that the manufacturers of butter may charge an unreasonable price for their commodity, and enable the large creameries to establish surely and securely a butter trust which may raise prices as their cupidity may dictate."

Here is another expression:

"Justice demands equal rights for both manufacturers of butter and butterine, both products having equal merit. Any adverse legislation against either must be condemned."

At the present time butter which, in its original state, would be too unsightly for use, is being colored continually with impunity by the farmers of Ohio. There has never been a protest raised against this coloring, although I understand it is illegal. But it would not serve the political purposes of our dairy and food commissioner to enter such a protest, although it would be strictly in the line of his duty. Consequently, that law, if such exists, is not enforced, and if none such exist, no attempt has been ever made to enact one, although such coloring is certainly for the purpose of deception.

I will venture to say that a vast proportion of our urban citizens, if compelled by law to use butter as it appears originally, and at the same time if forbidden to use oleomargarine, would abstain from its use altogether. They would prefer to eat dry bread or to use some sort of substitute, in the way of jam, or something of that sort, used as a spread, confining themselves, for cooking purposes, to the use of lard or something of that kind. That does not apply to all butter, but it does apply to the larger proportion by far of the butter that is placed upon our market for sale. Yet why is it that it is right to color butter and to deceive the people into believing that it is good Jersey butter, or some other kind that may be desirable, when it is really the product of a living factory, in the form of a cow, frequently unclean and disease infected, and which can not be regulated by health precautions, as a butterine factory can?

Here is another specific protest against increasing the tax on oleomargarine:

"We believe that the present federal law taxing butterine 2 cents per pound, and the additional regulations imposed by the Commissioner of Internal Revenue, are sufficient to properly regulate the manufacture and sale of butterine."

Here is an expression from some of the gentlemen to whom I referred recently as having met in the blacksmith shop.

This is from the Journeyman Horseshoers' Union:

"We feel that all people having arrived at the age of discretion should be left to exercise their own choice as to whether they shall use butter or oleomargarine: Therefore be it

"Resolved by Journeyman Horseshoers' Union No. 40, of Columbus, Ohio, That as long as butterine is colored with a healthful ingredient said coloring should be encouraged, as it improves the appearance of the product; that we do most emphatically condemn the persecution being waged against the butterine industry; that we protest against the attempt to increase the tax thereon, and that copies of this resolution be forwarded to every Congressman, with the request that they each and every one exert the most strenuous efforts to crushingly defeat once and for all any and all measures providing for the further taxing of butterine."

Now, gentlemen, I know, and so does the average citizen who knows anything about the lives of public men and how their time is occupied, that it is absolutely impossible to bring to the attention of each and every Senator or Member of Congress every letter and every appeal and every communication that is sent them. I myself have a hard time in reading and disposing of the mail which I in my humble capacity receive. And when I realize how your time, gentlemen, is taken up I can not but come to the conclusion that it is absolutely impossible for you to read all of these communications or to give very much attention to them. In a great many cases I know that they never get past the private secretary, particularly if the Senator or Congressman is busy, and it must be something of a very important personal nature on those occasions to receive his attention.

The CHAIRMAN. We know of the fact that they do protest. These labor union protests have been coming in for a long time. Now, in view of the fact that we have a very short time and are to hear Mr. Davis next this afternoon, there being only a few

minutes left before we adjourn, is it not sufficient to file these protests? If you have any new facts to present, I want to give you all possible opportunity to state them.

Here is something from the Painters and Decorators of Cleveland, Ohio. It speaks in very plain language. This is in the form of a letter signed by Mr. Peter Hassenpflue, 442 Erie street, Cleveland, president of said union:

"I have been instructed by our union, containing over 400 members, to write and inform you that we are unanimously and bitterly opposed to the bills now pending in Congress providing for the persecution of the butterine industry. As you doubtless know, there are laws now that are being carefully enforced and lived up to that make it impossible for butterine to be manufactured and sold for anything else but butterine, and it is the unanimous opinion of our members that butterine made according to these laws is better for all uses than three-fourths of the butter that can be bought. It won't get strong, and it don't come from feverish cows that are full of disease germs, and butter frequently does."

Now, gentlemen, it may seem to you that this language indicates a familiarity with such matters on the part of these workmen that is not consistent with their usual occupation, or with the very limited time they have to devote to the consideration or study of matters of this kind. But I assure you that they are familiar with all these points; that they are discussed continually, pro and con, in their unions; that they are giving deep and continual attention to this whole matter, and that the more this question is discussed in the labor unions the more and more do they become aware of the advantages of using oleomargarine in preference to butter. These points are all considered—the points about the feverish cows, the spread of disease, the destruction of disease germs by the process by which oleomargarine is manufactured, etc. All of these things come up for discussion, and organized labor is generally familiar with them. Unorganized labor may not be as familiar with them, and may depend altogether for their information on the subject upon what may appear in the daily newspapers. But, as I said before, its protest will come, as protests always come from men who are not organized, after the damage has been done, after the injury has been inflicted.

Here is what these men say, and they say it in very plain language:

"We feel this way—that if butterine is wrong, or poison, or liable to injure public health, then do away with it altogether; but if it is not (and years of experience in using it have taught us it is not) then why persecute the industry and keep passing laws against it? Our belief is that this is kept up just for political reasons, and that some people in Congress that are sworn to protect the rights and interests of all the people are willing to increase our already too high cost of living and add to our taxes just to catch the farmer vote and increase the business of the butter trust or trusts (and if butterine is killed they will soon be in one), and make them a present of the butter market so they can either rob the people or make them go without butter. It is the rankest kind of injustice to kill one industry that is right and legitimate in order to accommodate another. We want butterine; we know what it is; we would rather have it than butter, and it is an outrage, in order to gratify the people who make butter, that we should have to go without it and pay two prices for butter which we are compelled by law to eat, and which, nine cases out of ten, is not fit for human use. It is getting to be pretty serious when the Congress of the United States is asked to go into the business of booming certain interests, and for their accommodation driving their competitors out of existence, simply because they are competitors, and for no other reason on earth. A great deal is being said about butterine being a certain color. Now, the only reason that a kick is made on that color is because it helps to sell that commodity. If the butterine makers were to use red or black or blue, these patriotic statesmen, and others so solicitous for the people's protection, would raise no objection, because that would make the same point that they want to make by law, and that is to hurt its sale and thereby tickle the farmers, and advance the interests of the creamery trusts. The ingredient used in butterine which gives it its color has been proven by official chemical analysis to be a natural and healthful product. As there is no reason to kill butterine but because it hurts another business, then why not do away with these hose painting machines because they hurt our business?"

These are painters, gentlemen. The hose painting machines displace a great many painters, and deprive a great number of the men who wield the brush for a living of employment. They take a hose and run it up and down a wall, and in ten minutes a half day's work is done. But these men very wisely say that if Congress will abolish or prohibit the manufacture of butterine in order to accommodate the manufacturers of butter, then why not, on the same principle, do away with these hose painting machines to accommodate the painters, who are in proportion to the manufacturers of hose painting machines more numerical by far than the farmers and creamery people are in the same proportion to the manufacturers of oleomargarine. That is

precisely the same principle upon which is based the Grout bill. It is the only motive for its attempted enactment, and can not be concealed.

Mr. SCHELL. Mr. Chairman, if the gentleman will permit me, allow me to suggest now, before the time comes for adjournment, since I see he is not going to be allowed to say all that he wants to say, that he be allowed to file these resolutions from various people whom he represents, marking such parts as he wishes copied into the record, so that all he wishes to have appear prominently may appear as part of his remarks this morning, and be regularly before the Senate. I see these papers which he has are too voluminous to go bodily into the record; and it occurs to me that that disposition be made of them, in order that the committee may have the advantage of having the important portions of them before it. That is merely a suggestion. If it meets with no disapproval, I think the gentleman will gladly avail himself of it.

Mr. McNAMEE. Yes; thank you. I have just a few minutes more, gentlemen. (Reading:)

"We know it would be unreasonable to ask this, but it would be no more so than for butter makers to try, as they are doing, to drive butterine out of existence because it hurts their business.

"I will close by saying that we consider any further legislation by Congress tampering with the butterine business as a prostitution of that dignified body to the greed and avarice of certain corporations and individuals, at our sacrifice and that of the people in general who don't own farms or creamery factories, and in the name of my union, under its seal, and by its unanimous instruction, I earnestly request you do everything you can to defeat all measures that provide for the increase in the tax of, or further interference with, the manufacture or sale of butterine."

When railroads first came into existence, the proprietors of stage coaches and other methods of conveyance and transportation were very much displeased, and they kicked vigorously; but of course their kick did not avail them anything, because probably their political influence was defective in some way. Now, if the farmers should have to surrender to the manufacture of that side industry, the making of butter, because the manufacture of butterine has been demanded by the people in general, they would eventually come to a realization of the fact that, after all, they had not lost much, because in the raising of stock they would make as much, or at least according to my impression and the impression of those whom I represent, they would be as well off eventually as if this progressive industry were sacrificed now for their special benefit.

Now, gentlemen, as the time is very limited, as I have only one or two minutes more, and as you have kindly consented to permit me to submit my argument in brief form, as I understand it, Mr. Attorney—you are an attorney, are you not?

Mr. SCHELL. Yes.

Mr. McNAMEE (continuing). I will not refer any further to this butterine question. I simply wish to tender to this committee, and its dignified members individually, the sincere thanks of the Columbus Trades and Labor Assembly, and of the other organizations which I represent, for the courteous hearing you have given me on this occasion and for the patience with which you have borne with me.

I thank you sincerely, gentlemen; and I trust that it shall be our most pleasant duty to tender this committee a sincere vote of thanks for that protection of our interests which I feel confident they will give us.

ADDITIONAL STATEMENT OF JOHN O. McNAMEE, OF COLUMBUS, OHIO.

Mr. McNAMEE. Mr. Chairman and gentlemen, I simply desire to submit this as my reply to the remarks of Mr. Knight last night.

It would be a very great hardship upon me to be compelled to stay here any longer, as I must transact this afternoon some private business, which I have come to Washington to look after, and be gone to-morrow morning. I have no personal feeling toward any gentleman who has been connected with either side of this controversy. As for Mr. Knight, personally, I think that he is, under normal circumstances, a good fellow, and if it were in my power to do him a favor I would gladly do it. But I have a duty to perform and I must perform it.

I desire to take exception to Mr. Knight's method of designating my representative power. He has, in referring to me, used the expression, "the gentleman who represents himself as representing organized labor."

Permit me to pause to say that I will not submit to any questions, that I will submit this as my answer, and then go. This will be positively my last appearance before this committee at this session.

The credentials which I bear, gentlemen, from the Columbus Trades and Labor Assembly, bearing the seal of that organization and the signatures of its officers, should, I think, be sufficiently authentic to shield me from implied imputations of that nature

on the part of even those gentlemen interested in the destruction of the interests that I have been instructed by my constituents to protect. I would, therefore, request that this reference to my representing myself to represent organized labor be stricken from the record, as my credentials alone make such representation. Mr. Knight claims that there are but 23 labor organizations which have taken action against the Grout bill. I desire to impress upon you, gentlemen, that some of the organizations included in that number, even though Mr. Knight be correct in his estimate, represent in turn hundreds of subordinate organizations affiliated with them, the membership of which will go into the hundreds of thousands. They are what is known in the labor world as central bodies, and although it has been now some months since these resolutions were adopted by them, and although the delegates of which they are composed have reported back to their various suborganizations, the fact that those resolutions were adopted, we have yet to hear the first protest against or objection to such adoption of such resolutions on the part of any of the hundreds of local or subordinate organizations which constitute such central bodies. What, I ask you, could be more evidential of complete acquiescence?

Regarding the statement the gentleman makes relative to the Chicago Federation of Labor having in 1897 adopted certain resolutions condemning the coloring of oleomargarine, I desire to say that Mr. Knight has acknowledged that such action was taken as a result of his representations to two members of the legislative committee of that body, who in turn conveyed to their fellow-members the information imparted by himself. This is by his own acknowledgment the only enlightenment those gentlemen had on the subject. It is evident from the resolution adopted by the same body on March 1, 1900, more than three years later, and which I herewith submit, that as a result of full and complete investigation they have discovered that the representations of Mr. Knight were incorrect, and have not only rescinded their former action but in the most vigorous terms, and speaking out boldly and clearly for all they represent (and that means thousands and thousands of workmen—workmen who by their affiliation with organizations instituted for the protection of their rights and interests have demonstrated their possession of a high standard of intelligence and the fact that they are fully alive to a rigid observance of nature's first law—that of self preservation) protest in the most vigorous terms against the legislative persecution and destruction of the legitimate industry, manufacturing butterine.

The following is a copy of those resolutions:

"CHICAGO, March 21, 1900.

"HON. WILLIAM McALEER.

"DEAR SIR: The following resolutions were unanimously adopted by the Chicago Federation of Labor at regular meeting, Sunday, February 4, and I was instructed to forward a copy of same to you:

"Whereas the Chicago Federation of Labor is deeply interested in and desires to encourage every legitimate industry which furnishes employment to the laboring classes; and

"Whereas efforts are being attempted by contemplated legislation at Washington to destroy the manufacture and sale of butterine, thereby displacing large numbers of the industrial element and preventing them from gaining a livelihood, as well as the use of an article of food which has received the highest testimonials of every chemist in this country and the indorsement of every standard work that treats on the subject of hygiene; and

"Whereas we believe the efforts to place a tax of 10 cents per pound on colored butterine is inspired by selfish motives, so that the manufacturers of butter may charge an unreasonable price for their commodity and enable the large creameries to establish surely and securely a butter trust which may raise prices as their cupidity may dictate; and

"Whereas justice demands equal rights for both manufacturers of butter and butterine, both products having equal merit, any adverse legislation against either must be condemned; and

"Whereas the late published reports furnished to Congress by the Secretary of the Treasury proves the legitimate and growing demand for butterine and discloses the large amount of revenue derived therefrom; and

"Whereas we believe that the present federal law taxing butterine 2 cents per pound and the additional regulations imposed by the Commissioner of Internal Revenue are sufficient to properly regulate the manufacture and sale of butterine: Therefore be it

"Resolved, That we, the representatives of the industrial classes in Chicago, and voicing as we know we do the sentiments of the mechanic and the laborer throughout the country, protest against the passage of the Tawney, Grout, or any other bills that have for their object the further increase of tax or the relegating to the differ-

ent States the right to enact laws that are opposed to the interests of the people and in no way in harmony with the inventive and progressive spirit of the age; and be it further

“Resolved, That we instruct our secretary to have sufficient copies of these resolutions printed that one be mailed to every Senator and Congressman in Washington and one to each of the labor organizations affiliated with the Federation of Labor, requesting them to indorse same or pass others of a similar character, so that a full expression of our condemnation of such legislation may be made known.”

“Respectfully submitted.

“WALTER CARMODY,
“Secretary Chicago Federation of Labor.”

Mr. Knight has intimated that my presence here has been influenced by gentlemen representing the butterine interests. This statement I most emphatically deny. Were my presence in Washington or before this committee dependent upon any financial assistance, past, present, or prospective, given or promised me by or upon the generosity of the gentlemen here or elsewhere, or any other person representing directly or indirectly any butterine industry in any part of the United States or of the world, I assure you, gentlemen, I would not yet, were I dependent upon such assistance in coming here, I would not yet, I say, have been able to cross the eastern corporation line of my home city of Columbus, Ohio. I came here a perfect stranger to all of these men. They did not know me. They did not know of my coming, nor were they, as far as I know, aware of the fact that any action had been taken in this connection by our body. Having been instructed and empowered by the organizations I represent to oppose, in their name and in their behalf, the passage of the Grout bill to the fullest extent of my ability, for the reasons as expressed in my credentials, I propose to demonstrate to them that the confidence they have reposed in me is fully justifiable, and to carry out their wishes and their instructions to the letter. That and that only, together with my own instinctive sense of justice and right, is the motive which actuates my present course in this connection.

Another central labor organization, representing in turn hundreds of subordinate organizations, which has taken action against the Grout bill, and taken such action unanimously, is the Ohio Federation of Labor. I refer to the action of this body particularly because its protest is not, as far as I can learn, on file here. Now, gentlemen, I desire to say that the first intimation that I have had of the fact that said federation had adopted resolutions condemning the Grout bill was when the delegate representing the Columbus Trades and Labor Assembly at the convention of said Ohio Federation of Labor, held in Newark, Ohio, last November, reported that fact to a subsequent meeting of said Columbus Trades and Labor Assembly as part of his official report to said body. I was not present at the Ohio Federation of Labor when this resolution was presented, and never knew that such a course was contemplated, but now regard it as a matter of course that said bill, together with all unjust legislation which affects the interests of wage-earners, should receive, as it is receiving, general condemnation by all such central bodies and organizations. I would be safe in saying that my present opposition to this Grout bill is representative not only of the sentiment of organized labor in the premises, but of that prevalent generally among our urban citizens. Speaking particularly for Columbus, Ohio, I will say, and without the slightest fear of successful contradiction or contraversion, that such sentiment is general from our wealthiest and most representative citizen, the retired or active business man, to the very humblest and poorest. The fact of the matter is, gentlemen, that this present contention has resolved itself into an attack upon urban rights by rural influences, as manipulated and directed by the collective intelligence, experience, and designing capacity at present identified with the operation of creamery concerns, on one hand, and the firm determination on the part of the men representing such urban rights to defend themselves against such persecution and unjustifiable invasion of their constitutional rights.

It speaks badly for the merit of the contention being made by the gentlemen at present engaged in attacking the butterine industry that some of them should be compelled, as a feature of their effort, to resort to reprisal by way of making an attack on labor legislation, as some of them have to me personally threatened they would do. They propose to have the Senators, whom they seemingly profess to own and operate by right and virtue of their connection (whatever its nature) with agricultural influences, oppose all labor legislation which may hereafter be introduced in the United States Senate. We fear not such threats, and defy these gentlemen, or any others, to put them into operation. We have too much confidence in that sense of independence, prudence, and justice which characterizes the United States Senator to believe that any one of such Senators would lend himself to these gentlemen, or any other men or set of men, for the sheer purpose of gratifying a desire for revenge, or of satiating or

attempting to satiate or gratify that narrow-minded and un-American sense of intolerance, prejudice, and brow-beating tyranny which has characterized every action, expression, and argument of the supporters of this measure in their efforts to secure its passage, based as it is, and as they know it to be, upon a childish, senseless, miserable, contemptible, threadbare, and transparent subterfuge.

We have no quarrel with agricultural Senators or agricultural interests. We are simply endeavoring to protect ourselves from the evils sure to result from the complete formation of the creamery monopoly, the foundation of which is already laid upon the anticipated strangulation of the infant industry producing oleomargarine. Should such strangulation be successfully effected, said creamery monopoly will establish itself as the Standard Oil Company is at present established. They will own little creameries located in every village, and within easy access to all farmers of our country, to which said farmers will deliver their milk just as the Standard Oil Company at present secures its oil. Said creamery monopoly will regulate to its own suit the selling price of butter, and to the farmer's sorrow the purchasing price of milk. They will adopt the methods in general use by monopolies to destroy other competitors if they succeed in utilizing the United States Congress in destroying the oleomargarine industry, and the result will be that the citizens of the United States will have the pleasure of paying 55 or 60 cents per pound for butter, or going without it altogether. It will be the same old story of our citizens paying tribute to monopoly, vainly endeavoring to satiate monopolistic cupidity, which, as we all know, is insatiable and merciless. We recognize, and, if necessary, will defend the rights of the farmers; but we do not propose to have the farmer trample upon the rights of the manufacturer at our expense if we can prevent it. We happen to have interests ourselves, and when they are attacked we propose to devote organized effort to their protection. I beg to submit, in conclusion, one of the great number of resolutions adopted by labor organizations, viz, that of the Cleveland Building Trades Council, a central body representing over 6,000 Cleveland workmen.

"BUILDING TRADES COUNCIL,
"Cleveland, Ohio, April 27, 1900.

"DEAR SIR: The Building Trades Council of Cleveland, Ohio, and vicinity, representing over 5,000 mechanics, has by unanimous vote indorsed the action of the Chicago Federation of Labor and all the other labor organizations who are so doing in opposing the persecution of the butterine industry.

"We can not see any justification in placing a larger or, in fact, any tax on butterine or oleomargarine. The article is sold on its merits, and it would rather hurt than help its sale to attempt to sell it for butter, as it is more popular and generally regarded as more healthy than butter. Any of our people that may not want butterine can, while it is on the market, buy butter at a reasonable price, but if the attempt to kill it by legislation is successful, the butter manufacturers will have no competitors, and the result will be that the present butter trust will absorb the butter industry and control the purchase of milk by having little creameries in every farming locality on the plan of the Standard Oil Company, and we will have the pleasure of 50 or 60 cents per pound for butter, or going without it altogether, the chances being in favor of the latter.

"We feel that as butterine is demanded and sold for what it is, and as the laws regulating its manufacture and sale are operating successfully in preventing its adulteration, that the legislative bodies of our country have gone as far as they have any right to go, and that further interference on their part is persecution and intended to advance private interests at the expense of the rights of the people.

"There is, undoubtedly, political motives behind all this.

"There are a hundred different cases in which legislative vigilance could protect the people from adulterated foods where such vigilance is not exercised, or if in any remote way ever applied it is not being taken advantage of by the officials supposed to enforce it; and why? Simply because the manufacturers of adulterated foods or the beneficiaries of their existence have no influential competitors to be served by their suppression.

"Butterine has been the victim of legislative attacks for a number of years, and we feel it is now time to let up on it and devote the effort wasted in the persecution of this legitimate industry to some more worthy cause in the protection of the real interests of the people.

"There is an old saying that 'He who is bent on an evil deed is never lacking for an excuse,' and it is certainly applicable in this case, the excuse being that it is wrong to color butterine because it is likely to be sold as butter, whereas, in fact, owing to the extreme popularity of the former, there is more liability of an attempt being made by some butter manufacturer to imitate it, and the only reason why an attempt is made to prevent the use of the material in butterine imparting color to

it is to hurt its sale, as it has been proven this material is perfectly healthy. And where is the justice of prohibiting its use simply because it helps the sale of an honest product?

"As long as the people want butterine and it is good to use, as the Government chemists have proven, why should it be abolished? We can not see that there is need to say more. You can not but see the rank injustice of this whole business, and we would, therefore, earnestly request, in the name of common American justice, that you would strenuously oppose and exert every means in your power to defeat all such legislation.

"This letter has the hearty indorsement of our body, and as a testimony of which it bears our seal.

"W. C. DAVIS, *President.*

"GRANT MORGAN, *Secretary.*"

Senator MONEY. Are you a member of the Knights of Labor?

Mr. McNAMEE. No, sir; I am vice-president of the Columbus Trades and Labor Assembly. That assembly is affiliated—

Senator MONEY. Do you know how the Knights of Labor stand on this question?

Mr. McNAMEE. Well, the Knights of Labor and the Federation of Labor are two different bodies.

Senator MONEY. Then you do not know as to how they stand?

Mr. McNAMEE. As to the Knights of Labor I will say that they are intermingled all through the labor world the same as the other labor organizations. Now, the Knights of Labor are a general body with which smaller organizations are affiliated; but I will say that it has been my discovery, wherever I have heard this matter discussed in the ranks of organized labor, or amongst wage-earners at all, that they are absolutely and emphatically in favor of retaining the oleomargarine industry in competition with the butter industry, because they see, and they are absolutely honest in contending, that if the oleomargarine industry is at present crushed out (as it will be if this Grout bill is passed), a monster in the form of a monopolistic octopus will arise and gather in all under its protecting care—the butter industries of the United States.

I care not how extensive they may be. Look at the Standard Oil Company. It has monopolized the oil industry of the world. And it will not be long before we will have a "Standard Butter Company" which will be stronger than the United States Government.

THE WORKING OF A BUTTERINE FACTORY.

After a thorough personal inspection of the government-licensed and government-inspected butterine factories, some of these inspections made in company with our chief food chemist and expert, and all of them made without any knowledge of the oleomargarine people that I was coming, I find the following a summary of them all.

Of course, the formulas change, but only as to proportions of the same ingredients, and the temperatures vary a few degrees, according to the experience of the particular factory making the variation. There is no material difference. I quote from my memoranda:

The oleomargarine is made up of a mixture of—

	Per cent.
Cotton-seed oil.....	15 to 25
Neutral lard.....	20 to 35
Oleo oil.....	20 to 35
Butter.....	20 to 35

This formula changes in the same factories slightly with the varying temperatures of the seasons.

The origin of the ingredients.

The healthfulness of the ingredients which go into butterine and the product itself is better understood when it is known whence and how these parts of the product come.

Neutral lard is a swine oil made from the leaf fat of government-inspected animals. It is the richest, cleanest, and finest fat of the hog. Being a hog product, it might from religious scruples be objected to by the orthodox Jew, just as he would from scruples of conscience object to the whole hog and all his connections.

Oleo oil is made from the caul fat of prime hand-fed government-inspected bees. It is the best oil which comes from the bovine species.

Butter oil, or that grade of cotton-seed oil which is so known because of its extra prime quality, is made from a certain grade of cotton seed, gathered and selected at a certain stage of the cotton crop. They must be well matured or butter oil will not result. It is the finest and dearest of the grades of cotton oil. The butterine maker

might desire to use a cheaper oil, but no other quality can be used. To attempt it would be to ruin his product. The above grades of the above ingredients must be employed; no other will mix perfectly. These ingredients are perfectly healthful and very nutritious. Neutral lard has neither taste nor smell. The same may be said of butter and oleo oils; such is virtually true.

Butter, of course, comes from dairy cream. It is the other ingredient, and is pasteurized because not from government-inspected stock, and to kill the germs, which are well known to generally exist in milk from the dairy.

The neutral lard is melted at about 160° F.; the oleo oil 160°; the cream is sterilized at about 170°.

Most factories buy their neutral lard ready for mixing. When it is not so bought it is made as follows:

1. The fresh leaf fat is hashed; that is, cut up for cooking the oil out.
2. The pieces go into a rendering kettle, where the oil is cooked out at a temperature of about 170°. This temperature destroys all germs, if any remain in a government-inspected hog.
3. The oil is then drawn off through fine hair-mesh sieves into receiving tanks, where it is cooled down to about 110° F. for churning.
4. From the tanks this neutral is taken in its proportion to the butterine churn, where it becomes one of the ingredients of the oleomargarine.

Most factories buy their oleo oil ready for mixing in the churn. Where this is not done the oil is made as follows:

1. The caul fat of prime hand-fed beef purchased. No other grade of fat will do for this extra prime oleo oil.
2. The fat is then hashed for cooking. The oil is cooked out at a temperature of about 170° F.
3. The oil is next drawn off through a thin, hair-mesh wire screen into tanks, where it is cooled down to a lower temperature.
4. Thence it goes into a room which is kept above 90° F., where it remains about twenty-four hours.
5. The oil is then pressed to separate the stearine from it.
6. The oleo oil then goes into the churn as the oleo ingredient of oleomargarine.

The butter oil joins these as the cotton-seed oil ingredient of the forming product. The cream is obtained, of course, from milk bought of the dairy farmers. Very few butterine factories use less than 3,500 quarts per day and some as high as 14,000 quarts daily. When the milk reaches the factory it takes the following course to the margarine churn:

1. The milk is dumped from the dairy can into a factory receiving can, where it is tested for conditions of sweetness, etc.
2. It is then pumped into an open, zinc-lined vat.
3. From this vat it runs into a zinc-lined, copper cooling trough, where it is brought to a temperature of about 80° F.
4. It then goes into a separator, which revolves at about 4,000, and throws out the milk from it. The bulk of the cream filth is dropped into a trough.
5. The cream then goes to the pasteurizer to be sterilized. The skim milk runs through chilling coils which cool it down to about 40° F. by the time it reaches the cans that receive and hold it for disposal to farmers and others. The cream is pasteurized at about 170° F.
6. From the pasteurizer the cream goes to a can which is placed in ice water to keep it at a temperature of 34° to 35° F.
7. From this ice-water tank it is taken to the churn room on an upper floor,
8. Where it is ripened at a temperature slightly above 70° F. for the churn. This ripening process takes about 30 hours, more or less, according to the season.
9. When properly ripened, the cream also goes into the butterine churn as an ingredient of oleomargarine.

This completes the parts which go to make the product called oleomargarine or butterine. The "butter color" is also added now, and the whole is churned into one homogeneous mass. This is completed in about eight minutes.

Process butter—How made.

Process, or what is usually known as renovated, butter is old, rancid butter reworked, freshened up, and sold for the real article. The workings of this phase of the butter business, not being subject to municipal, state, or government supervision, are involved more or less in secrecy. The process by which renovated butter is produced is as follows:

The rancid, old, unsalable butter is first melted and heated at a high temperature to drain off as much of the accumulated gases as possible, after which cold water is passed into the oil. The oil rises to the top on settling. It is then removed. This

oil constitutes the base of the process butter. The water in which the oil has been washed eliminates the solid impurities, etc. After being removed, the oil is allowed to set in a cold temperature and then, when sufficiently cooled, is churned with fresh milk, sometimes with cream.

Fresh milk has the property of absorbing very freely butyric acid, the rancid properties of butter. The butter is then worked in the usual way with fresh cold water, salt, etc., thus reproducing fresh butter of degenerate merit and short life. After a few days its old character begins to reappear. There are no records as to the effect of such butter upon the human health. A vile-smelling flavoring matter is used to give process butter the desired creamery odor. Coloring matter is also used to give it the trade color of butter substances. It is then marketed in tons as fresh creamery butter.

EXTRACTS FROM STATEMENT OF DR. HARVEY W. WILEY, CHIEF CHEMIST, UNITED STATES DEPARTMENT OF AGRICULTURE, IN HEARINGS ON GROUT BILL BEFORE HOUSE COMMITTEE, FIFTY-SIXTH CONGRESS.

Representative BAILEY. Doctor Wiley, let me ask you this question: Do you consider oleomargarine a wholesome article of food?

Doctor WILEY. I do.

Now, the value of a food is measured solely by two standards. First, its palatability, and, second, its nutritive properties. You need not try to convince human beings that palatability is not an element in nutrition, because it is, and yet you get a great deal more of a food if it is palatable in its taste and attractive in its appearance, because the attitude of the digestive organs changes absolutely with the appearance of the food. If you were to put butter up in the form of ink, it might be just as digestible, and all that, and yet it would not be so useful as a food. The appearance of a food has a great deal to do with the attitude of the digestive organs toward it.

A MEMBER. It is simply a reflex action from it?

Doctor WILEY (continuing). Yes; because the mind, the mental attitude, influences the secretion of the ferments which produce the digestion, and hence we must have some regard to that appearance.

Representative WILLIAMS. That is so true, Professor, is it not, that sometimes when a person takes a prejudice against a particular article of food it will make him vomit if he attempts to eat it?

Doctor WILEY. That is very often the case. That is due to his mental attitude. We all have our idiosyncrasies.

Representative NEVILLE. Do you think the fact that people color butter is any excuse for people being permitted to color oleomargarine, if, as a matter of fact, it results in putting butter and oleomargarine onto people who do not want to eat it in that shape?

Representative BAILEY. Then reverse the question.

Representative NEVILLE. Yes, sir; answer it, and then reverse it?

Doctor WILEY. I believe that every food product should have the same right before the law. I do not see why there should be a distinction.

Representative BAKER. You stated a minute ago that the manufacturer of every food product has the right to make it palatable to the consumer.

Doctor WILEY. And to make it attractive in its taste, provided he tells what is in it—provided he does not injure the health of the consumer.

Representative NEVILLE. You just stated that you would prefer to have butter without coloring?

Doctor WILEY. Yes, sir; I prefer it so, very much, for myself.

Representative NEVILLE. So do I, and I apprehend there are a great many people in the same position.

Doctor WILEY. I prefer it very much; and having been brought up in the dairy industry, and being interested in the subject, I believe we are injuring our dairy industries by permitting the coloring of butter.

Representative HENRY. That has been for years my contention with butter makers, that the dairy interests were injuring their own products by artificial coloring.

Doctor WILEY. Yes; that is my idea, my conviction. You can get uncolored butter in New York; you can go and get it at Delmonico's, and some other high-priced restaurants; and the fact that the uncolored butter brings the highest price in the market ought to be an object lesson to our dairymen that they are standing in their own light when they color their butter. Now, if they would let the manufacturers color oleomargarine, and would keep butter at its natural color, there would be no difficulty in discriminating between the two.

Representative WILLIAMS. In that connection, will you tell us something about the fraud of "renovated butter," if you know about it?

Doctor WILEY. Yes; I know a good deal about that, not from a manufacturing point of view, but the other.

Representative WILLIAMS. I wish you would tell the committee about it.

Doctor WILEY. Two years ago I was addressing farmers' institutes in southern Indiana, and I saw, loading on the cars at North Vernon, car after car of barrels. I said to my friend, who was the agent, "What have you got in all these barrels?" "Why," he said, "butter, which we have bought all over this country." I said: "Are you sending it to New York?" "No; sending it to Elgin." "What for?" "Why," he said, "they take it there, and it is renovated and sold as Elgin creamery butter all over this country." And there was carload after carload of country butter (and some of you know what country butter is, indiscriminately) which was hardly fit to go on to the market, but which was being sent there for the purpose of having it reduced to uniform grade in a town famous for its butter, so that, being sent from that town, it could get an additional price in the world's markets. And that is a very common practice where creameries do not exist; and they are not found all over this country. The old-fashioned way of making butter in the farmhouse still obtains in such places; and sometimes, as Mr. Wadsworth has said, the butter is made of cream which is not taken at the right moment, and which is not entirely palatable. Now, I do not know the exact process of renovation, although I know something about it. I know that the butter is melted; I know that the curd is removed, and it has been stated that the rancidity is corrected by the addition of an alkali, presumably bicarbonate of soda, or something of that kind, but of this I have no personal knowledge. Then the material is re churned with fresh milk, resalted and molded, and makes a very presentable appearance in the market. That is what is known as renovated butter.

Representative WILLIAMS. Do you know anything about their collecting and buying rancid butter from the hotels and restaurants, and renovating that?

Doctor WILEY. No; I only know what I have seen, as described to you. I do not know anything, personally, about the collection of such butter; but I imagine that economical hotel keepers and restaurateurs do now throw away their left-over butter.

Representative STOKES. One other question. Is it not a fact, pretty well demonstrated through the Bureau of Animal Industry, that the dairy herds of the country are largely impregnated with tuberculosis germs?

Doctor WILEY. I think that is well recognized everywhere—that tuberculosis is very prevalent among our dairy cows.

Representative STOKES. One other question: Is it possible, in the manufacture of butter from the cow, in the creameries, to eliminate those germs if the germs exist in the herd?

Doctor WILEY. Not by the application of heat, because that would ruin the physical properties of butter.

Representative STOKES. Is there any other process within your knowledge?

Doctor WILEY. Nothing except the addition of preservatives, which is equally objectionable.

Representative COONEY. I want to ask you this question, Doctor Wiley: If the answers given by you to Mr. Stokes's questions are correct, would it not follow that it is much safer and healthier for a person to confine himself strictly to eating oleomargarine and let creamery butter entirely alone; does that not necessarily follow from the questions and answers?

Doctor WILEY. If you are to avoid danger from infection of tuberculosis, I think that would be true.

CITY OF ST. LOUIS, Mo., April 18, 1910.

MR. A. F. LEVER,

House of Representatives, Washington, D. C.

MY DEAR SIR: I beg to acknowledge receipt of your favor of the 14th instant, making inquiry concerning any investigation of oleomargarine that we may have made, relative to its qualities as an article of food and asking my opinion of its wholesomeness.

In replying, I would say that we have made no special investigation of this article, but have relied principally on the analytical work of the Bureau of Chemistry of the Department of Agriculture and on observations concerning the methods of preparation.

It is, however, our opinion, and one that is generally accepted, that oleomargarine is wholesome and highly nutritious. Our principle difficulty with the retail trade concerning the product has been the prevention of its sale as butter. Relative to the justice of the tax referred to, it would appear to be simply an economic measure for the purpose of defraying the expense of regulating the methods of manufacture of oleomargarine and enforcing the regulations for its sale under its proper name.

Respectfully, yours,

H. WHEELER BOND,
Health Commissioner.

BOARD OF HEALTH COMMISSIONERS AND
BUREAU OF VITAL STATISTICS,
225 Asylum Street, Hartford, Conn., April 19, 1910.

Mr. A. F. LEVER,
House of Representatives, Washington, D. C.

DEAR SIR: Replying to your communication of April 14, I can see no reason why good oleomargarine made under proper provisions should not be a more sanitary product than much of the butter now on the market.

Very truly, yours,

C. P. BOTSFORD, *Superintendent.*

CITY OF MEMPHIS, DEPARTMENT OF HEALTH,
April 18, 1910.

Hon. A. F. LEVER, M. C.,
Washington, D. C.

DEAR SIR: Your valued communication of the 14th instant addressed to "The Commissioner of Health" has been referred to me for reply.

I consider oleomargarine an eminently wholesome article of food when sold and used as such. I favor the removal of the present tax, but I am unalterably opposed to allowing the sale of oleomargarine unless specifically so branded, and would suggest that the law repealing the tax carry with it a minimum fine of \$1,000, to be imposed upon anyone selling or offering to sell oleomargarine as butter.

Respectfully, yours,

P. W. HOLTZENDORFF, *Chief Chemist.*

BOARD OF HEALTH,
Toledo, Ohio, April 16, 1910.

A. F. LEVER,
House of Representatives, United States, Washington, D. C.

DEAR SIR: In reply to yours of April 14, 1910, I give you my opinion that oleomargarine properly prepared is not objectionable for consumption as food for human beings.

Respectfully,

DR. B. BECKER, *Health Officer.*

BOARD OF HEALTH,
Cincinnati, Ohio, April 19, 1910.

Mr. A. F. LEVER,
House of Representatives, Washington, D. C.

DEAR SIR: In answer to your letter of April 14, concerning the repeal of the 10-cent tax upon oleomargarine and asking for an expression of opinion as to the wholesomeness, and so forth, of oleomargarine as an article of food, I desire to say that, after a considerable study of oleomargarine, its composition and method of manufacture, a great deal is to be said in its favor as a food product and practically nothing supporting charges of unwholesomeness against it as an article of food.

In food value it is equal to butter; it is made from the cleanest constituents and keeps longer than butter. The method of manufacture insures its being presented to the consumer free from tuberculosis germs. The latter may be taken into the system in butter manufactured from tuberculous cows, and it is pretty generally conceded at this time that much of the tuberculosis in children is due to infected food from this source.

Yours, very truly,

J. H. LANDIS, *Health Officer.*

HEALTH OFFICE,
Louisville, Ky., April 19, 1910.

Hon. ASBURY F. LEVER,
Committee on Agriculture, Washington, D. C.

DEAR SIR: Your letter of April 14 is before us for reply. We take very great pleasure in stating that we consider oleomargarine, properly made, as a very wholesome article of diet, and we believe that the repealing of the 10-cent tax on the colored product is justice to this class of food, provided it be sold so as to inform the consumer of its true character.

Very truly, yours,

VERNON ROBINS, M. D.,
City Chemist and Bacteriologist.

ADDRESS BY THOMAS P. SULLIVAN, PRESIDENT OF THE NATIONAL ASSOCIATION OF RETAIL GROCERS, TO THE EXECUTIVE COUNCIL OF THE AMERICAN FEDERATION OF LABOR, MARCH 24, 1910.

The National Association of Retail Grocers of the United States, of which organization I have the honor of being president, is, I believe, closer to the individual members of the American Federation of Labor than any other organization in the United States, particularly with reference to the prices of the necessities of life. Our organization is composed of about 1,800 subsidiary grocers' organizations, extending all over the United States and embracing nearly all the retail grocers in the United States. During the periodical hard times which we have had in the past, when the mills and the mines have been temporarily closed and the workmen have been without ready money to purchase the necessities of life, the retail grocers extended to the workmen the credit which has enabled them, or assisted them, to provide for their families and themselves personally the food necessary to sustain life. I state this merely to show you that we are your proven friends and that you may give your serious earnest consideration to the statements I will have to make further.

At the last annual convention of our association it was unanimously voted that we should work for the repeal or the revision of the present oleomargarine laws. There are many reasons for the adoption of this resolution by our association, and we trust that when those reasons are fully explained to you your organization will vote to cooperate with us in this work.

The fight made for oleomargarine is strictly upon the merits of the product. Those who want to use it as an alternative for butter are entitled to do so without having to pay a tax or to be under any restrictions whatsoever. If it is wholesome, nutritious, and palatable, there is no reason why it should not be manufactured and sold for what it is, and consumers of it are as much entitled to ask that it be colored in a certain way as are the consumers of any similar article. To do less than to give them this privilege would be strictly unfair. Consumers of butter demand that it be colored yellow, because usage has made that more pleasing to the eye, and consumers of oleomargarine should have the same privilege if they desire, and in view of the present high prices of all kinds of food products, no tax or restriction other than necessary should be placed upon any admittedly meritorious article of food.

In the first place, the prices of butter are controlled by a Butter trust, which not only fixes the selling price of butter, but purchases from the farmer during the summer season at prices fixed by the same trust all kinds of milk and cream, which are made into butter by the large creameries controlled by the trust, and the product is then held in cold storage or otherwise by the trust, until it can be sold without competition at extraordinarily high prices. This Butter trust is so strong that it has been able to control legislation, not only through the various States, but also in Congress, and by such legislation has stifled all competition. Under the present laws, butter is not subjected to inspection by the Government, and neither the dealer nor the consumer has the means of fully ascertaining the character of the butter which he purchases at a high price. On the other hand, oleomargarine to-day is made only in factories which are under the inspection of two departments of the Government, namely, the Agricultural Department and the Treasury Department. Oleomargarine is composed of pure beef oils, commonly known as oleo oil, neutral and vegetable oil, which are churned with milk and cream under the inspection and supervision of government officials. The oleo oil, neutral and vegetable oil, are originally inspected under the meat food inspection law before they are delivered to the oleomargarine manufacturers. Then in the oleomargarine factory these substances, together with the milk and cream and coloring matter, if any is used, are fully inspected throughout the process of manufacture by officials of the Agricultural Department and the Bureau of Internal Revenue, and before the finished product finally leaves the factory it is again inspected and no portion of such product is permitted to leave the factory without the guaranty of the government officials as being a wholesome, pure, and nutritious article of food.

Two kinds of oleomargarine are made, one uncolored, which is, under the present law, subject to a tax of one-fourth of one cent per pound, and the other, which is colored with perfectly harmless coloring matter, is taxed at the rate of 10 cents per pound. From our experience in the sale and use of oleomargarine, we consider that both the colored and uncolored product are just as wholesome, nutritious, digestible, and palatable as good creamery butter, and if it were not for the tax of 10 cents per pound upon colored oleomargarine, we would be able to sell this pure article, as inspected by the Government, to the consumer at a price about 10 cents per pound less than the price of good butter during the greater portion of the year.

The present oleomargarine laws should be revised for another reason, viz, the present tax of 10 cents per pound upon colored oleomargarine is a direct incentive to

many dishonest peddlers and dealers to purchase from the manufacturer uncolored oleomargarine, to secretly color it in old barns, basements, and other out-of-the-way places, and then to sell it to the consumer either as colored oleomargarine or as butter, at a price a few cents lower than the price of creamery butter, thus evading the tax, deceiving the consumer, and defrauding the honest dealer of his rightful trade.

We believe that the consumer to whom we sell should be enabled to know exactly what he is buying. Owing to lack of any inspection of butter whatever by the Government we are not always able to guarantee to the consumer the character of the butter which he purchases, but when we receive in our stores packages of oleomargarine which are marked as inspected by government officials, we feel that we can guarantee that product to our customers as a wholesome and nutritious article of food, and we desire to have oleomargarine as well as all other products sold by us identified to the consumer and properly labeled for exactly what it is.

Since the last annual convention of the National Association of Retail Grocers we have been working toward the framing and passage by Congress of such an oleomargarine law, in lieu of the present oleomargarine law, as will establish a uniform rate of tax upon colored and uncolored oleomargarine, reducing the tax upon colored oleomargarine from 10 cents to not more than 2 cents per pound, with such protection in the sale thereof as will enable the consumer to purchase the best grade of colored oleomargarine at a price very little in excess of the present price of white oleomargarine, and will also protect the consumer who desires to purchase genuine creamery butter.

Under the direction of the Secretary of the Treasury, last summer a bill was drawn providing that all oleomargarine shall be put up by the manufacturers in 1, 2, 3, and 5 pound packages, each package to be honestly labeled for what it contains, so that the consumer may know definitely what he is buying, and providing also that the contents of such packages should have indented therein the word "Oleomargarine," and that the wrappers of each and every package should be sealed with the government revenue stamp before it leaves the hands of the manufacturer, which seal may be broken only by the consumer, with heavy penalties imposed for the violation of any such law. This bill has not yet been introduced in Congress.

The bill drawn by the officials of the Treasury Department also proposes to fix a uniform rate of tax upon all kinds of oleomargarine, colored or uncolored, at the rate of 2 cents per pound, thus eliminating the great incentive to illicit coloring of oleomargarine. The present laws make the colored oleomargarine taxable at the rate of forty times that of white oleomargarine.

It is now proposed by the officers of our association to either support the measure prepared in the Treasury Department, if it should be introduced in Congress at this session, or with the cooperation of the Retail Butchers' Association, the labor organizations, and the vast body of consumers to introduce at this session an independent bill similar to the measure proposed by the Secretary of the Treasury and to pass the same either at this session or at the next session of the present Congress. The proposed bill will contain a clause, as stated above, for the establishment of a uniform rate of tax upon colored and uncolored oleomargarine, at a rate not exceeding 2 cents per pound, and will contain the above-mentioned administrative features and specifications as to sealed original packages for the protection of the honest dealers and consumers. We believe that everyone interested in the passage of such a law should immediately send letters and petitions to their respective Congressmen urging the passage of such a law, as the members of our association and other associations are now doing. We are here to request your earnest support and cooperation with us in this work.

ARGUMENTS FOR WORKINGMEN.

[From the National Labor Tribune.]

Plain and specific reasons given why all wage-earners should insist that Congress repeal the present discriminating tax on oleomargarine, a more wholesome food than butter.

Why does the butter manufacturer use artificial color?

Does artificial color conceal inferiority in butter?

Why does the butter manufacturer claim a monopoly of the right to use artificial color?

Why not label and mark butter so the consumer will know what he is buying and be protected against substitutes?

Why allow stale butter to be stored in warehouses for six months or longer, and then artificially colored and reworked, to masquerade and be sold under names that mislead the consumer in the purchase of so-called pure butter?

If the Government needs the money, why not place a tax of one-quarter cent per pound on all butter? This will realize a sum twenty times as large as the present tax on oleomargarine.

The National Labor Tribune has, from time to time, published the testimony of the highest chemical experts and most distinguished food authorities to prove that oleomargarine is a cleaner and more wholesome food than butter. As this testimony establishes beyond controversy the food value of "oleo," the main question to be considered is the complaint that fraud is practiced in its sale.

The only just complaint (indeed the only complaint) against the existing oleomargarine law consists in the facility with which the retail dealer, in selling from the original, or wholesale, package and substituting a new and unmarked wrapper, may violate the law. There is nothing in H. R. 3717 (known as the Grout bill) which would decrease the temptation or increase the difficulty of such violations. On the contrary, the increased taxation would either be fraudulently evaded or else would force the honest manufacturer out of business. H. R. 3717 merely increases taxation without providing any new or additional penalties or any new methods to prevent the sale of oleomargarine as butter, either in its colored or uncolored state. In fact, the radical advocates of the Grout bill do not seek this end, as they have declared in their testimony before the committee, and in declarations elsewhere, that their sole intention is to absolutely crush out the manufacture of oleomargarine and eliminate it as a food product.

In substantiation of this assertion we quote the following:

Mr. Adams, pure-food commissioner of the State of Wisconsin, in his testimony before the committee on March 7, 1900, said:

"There is no use beating about the bush in this matter. We want to pass this law and drive the oleomargarine manufacturers out of the business."

Charles Y. Knight, Secretary of the National Dairy Union, in a letter to the Virginia dairymen, dated May 18, 1900, writes:

"Now is the time for you to clip the fangs of the mighty octopus of the oleomargarine manufacturers, who are ruining the dairy interests of this country by manufacturing and selling in defiance of law a spurious article in imitation of pure butter. We have a remedy almost in grasp which will eliminate the manufacture of this article from the food-product list. The Grout bill, now pending in the Agricultural Committee of the House of Representatives in Congress, meets the demand."

W. D. Hoard, ex-governor of Wisconsin, and president of the National Dairy Union, stated in his testimony before the committee on March 7, 1900, as follows:

"To give added force to the first section of the bill, it is provided in the second section that a tax of 10 cents a pound shall be imposed on all oleomargarine in the color or semblance of butter. In plain words, this is repressive taxation."

In view of this testimony the minority believe they are justified in claiming that the Grout bill, if enacted into law, would destroy the business of the legitimate oleomargarine manufacturers. In other words, Congress is being asked to ruin one industry to benefit another; and this, in the opinion of the minority, is a thing Congress ought not to do. The minority believe it to be class legislation of the most pronounced kind and would establish a precedent which, if allowed, would create monopolies, destroy competition, and militate against the public good.

The bill was made law in spite of its injustice, and now the workingmen of the country are united in demanding its repeal.

A half-dozen leading butter men of Braddock, who have been handling oleomargarine, and are among the heaviest dealers in this product in the western part of the State, the other evening decided to handle it no more.

A statement issued reads: "On account of the local requirements and the severe penalties inflicted on dealers who sell colored butterine or oleomargarine, we positively can not and will not sell it at any price after December 9. While realizing the disadvantages of such a step to the consumer, we believe that in view of the severe enforcement of the law against the dealers and the heavy penalties imposed, we are powerless to do otherwise than take this action. Its repeal is their only remedy."

It has been a constant source of wonderment to those interested in the manufacture of oleomargarine that the workingman has allowed himself to remain silent during all of these twenty-three years of federal oleomargarine taxation and State attempts at suppression.

Admitting that the wage-earner was benefited by the federal laws of inquisition, to prevent the fraudulent sale of butterine for butter, why was it necessary to place a tax of 2 cents per pound upon such regulations, when such tax was far in excess of the necessary expenses for the work?

For sixteen years the Government assessed a 2-cent tax upon oleomargarine, collecting from this source alone millions of dollars, and, in addition thereto, received from licensees of manufacturers, wholesale and retail dealers, many hundred thousand dollars annually.

All of this money was paid by the consumers of butterine, and it is safe to predict that 90 per cent of the butterine was consumed by wage-earners, 50 per cent of whom performed manual labor.

Not satisfied with this tax, for the regulation of the sale and manufacture of oleomargarine, under the law of 1886—and during which time the consumption of oleomargarine increased 500 per cent—those interested in further protecting the dairy interests had passed in the year 1902 a law increasing the 2-cent tax on oleomargarine to 10 cents per pound if artificially colored, and at the same time, and under the same law, allowed the privilege of manufacturing uncolored butterine at one-fourth cent per pound.

Why was this done?

Many theories and facts have been advanced why this was done, but the main theory and the most logical one is, that the butter interests sought by this high tax upon the colored butterine to debar it competitively with colored butter, because with the additional tax of 10 cents per pound on this product, added to the increasing cost of material used in butterine, the difference in price between creamery butter and colored butterine would have been only trivial—but, why did they put a tax of only one-fourth of 1 cent per pound on butterine free from artificial coloration?

For the same reason that they put the 10 cent tax on colored butterine—to wit, to destroy the sale and thereby the manufacture entirely.

Unscrupulous dealers bought the quarter-cent taxed product, colored it artificially, and sold it for either the higher taxed article, or for butter, which caused the dairy interests to denounce everybody engaged in the manufacture or sale of butterine as “moonshiners,” “rascals,” etc.

The Government was put under stress and great expense of ferreting out alleged “moonshiners” in a few of our important cities, and the Government declares that it was put to a great expense on this account and that the revenue derived from oleomargarine was not sufficient to pay these increased expenses.

Now, suppose that Congress should reduce the tax of 10 cents on colored oleomargarine to 2 cents per pound, is it not reasonable to believe that the alleged moonshining will be entirely discontinued, on account of the small difference of tax between the uncolored and the colored butterine?

If such be the case, should not the workingman insist upon Congress leaving the quarter-cent tax on the uncolored product just as it is, so that the workingman who prefers the lesser-priced product may have the privilege of buying it? If, however, he desires to buy the colored product he can do so with only an additional tax of $1\frac{1}{2}$ cents instead of $9\frac{1}{2}$ cents per pound under the present law.

The workingman has “paid the freight” now for twenty-three long years upon an article that the Government allows to be made and sold within its borders, and while we do not want to arbitrarily say that it should be free from taxation, we insist that the workingman should have his privileges and his rights and buy this product as free from added government revenue as possible.

Everyone knows that color does not add anything to the quality of butterine. It simply improves its appearance, but since the fad has been inaugurated with the larger eastern hotels and restaurants, in serving uncolored creamery butter, the item of sightliness is considerably reduced.

The protection of the dairy interests for their product was obtained through their political prestige, but with organized labor this prestige could be matched and a demand made by them to receive an equal amount of protection from Congress, or at least a justifiable one.

If organized labor sees the necessity of asking for an advance in wages from the employer, why is it not more just and reasonable for organized labor to ask for a reduction of taxation from its Government, especially upon their foodstuffs?

It is, perhaps, a lack of presentation, and now that the matter is in the “boiling pot” of consideration, cognizance should be granted this all-important subject, because, as a rule, laws stand for many years, which is best illustrated by the present law, remaining in force for seven years, and the preceding one for sixteen years, so that it is not only a matter of temporary gain, but that of many years to come, and involving millions of dollars.

STATEMENTS OF SCIENTIFIC EXPERTS, SHOWING THAT OLEOMARGARINE IS WHOLESOME, NUTRITIOUS, HEALTHFUL, AND PREPARED UNDER SANITARY CONDITIONS.

Dr. Harvey W. Wiley, Chief Chemist, Bureau of Chemistry, Department of Agriculture:

“Oleomargarine, when made under proper sanitary conditions from sanitary raw materials, is a wholesome and nutritious article of diet, and usually can be

sold at a smaller price than butter; * * * the principal objection, and in fact the only valid objection, to its use is found in the frauds which have been committed in its manufacture and sale * * * to sell it as butter." (Foods and Their Adulteration.)

Testimony of Dr. H. W. Wiley before the Senate Committee on Agriculture and Forestry of the Fifty-sixth Congress:

Doctor WILEY. The temperature required in rendering the fat and preparing the oil would be high enough to kill most of those germs, I should think.

Representative STOKES. One other question. Is it possible in the manufacture of butter from the cow, in the creameries, to eliminate those germs if the germs exist in the herd?

Doctor WILEY. Not by the application of heat, because that would ruin the physical properties of butter.

Representative STOKES. Is there any other process within your knowledge?

Doctor WILEY. Nothing, except the addition of preservatives, which is equally objectionable.

Representative COONEY. I want to ask you this question, Doctor Wiley: "If the answers given by you to Mr. Stokes's questions are correct, would it not follow that it is much safer and healthier for a person to confine himself strictly to eating oleomargarine, and let creamery butter entirely alone?" Does that not necessarily follow from the questions and answers?

Doctor WILEY. If you are to avoid danger from infection of tuberculosis, I think that would be true.

Dr. John H. Long, professor of chemistry in Northwestern University Medical School, Chicago, and member of the referee board of consulting scientific experts to the United States Secretary of Agriculture:

"When properly made they are wholesome and in every way as good as butter, from the standpoint of nutritive value. (From Text Book of Physiological Chemistry.)

Dr. Robert Hutchison, assistant physician to the London Hospital and to the Hospital for Sick Children:

"From what has been said as to the chemical composition of butter, it will be apparent that if part of the more solid constituents could be removed from ordinary animal fats, leaving chiefly olein, the substance left would resemble butter very closely. As a matter of fact, that can be done, and the product is known as margarine. * * * It will be observed that the proportion of fat in margarine is exactly the same as in an average specimen of butter, and the only point in which the two differ is that butter has a much higher proportion of the soluble and volatile fatty acids. There is no reason to believe that this is in any way to the disadvantage of margarine as a food. The fat of our bodies contains no soluble fatty acids, and human milk fat is almost destitute of them, too. Indeed, one might almost regard the absence of butyric acid as a point in favor of margarine, for when butter becomes at all rancid, butyric acid is liberated from the butyric, and butyric acid is an exceedingly irritating substance. The comparative absence of casein in margarine is also a good point, for casein, as we have seen, tends to promote the decomposition of butter, and its absence should help margarine to keep better.

"So much from the chemical side. From a physiological point of view, margarine is equally deserving of recommendation. It is absorbed almost as completely as butter, the difference being only about 2 per cent. In other words, 102 pounds of margarine are equal in nutritive value to 100 pounds of butter. Whatever may once have been the case, margarine is now made only from pure animal fats, and the processes to which it is subjected in manufacture insure its further purification. As its flavor is equal to that of an average specimen of butter, and as it has the advantage of being very much cheaper, there is every reason to wish that the prejudice against it, which is still rather widespread, should quickly disappear, and that it should be welcomed as an admirable and a cheap substitute for a rather expensive but necessary food." (Food and Dietetics.)

Dr. Charles Harrington, assistant professor of hygiene in the medical school of Harvard University:

"Oleomargarine has been misrepresented to the public to a greater extent probably than any other article of food. From the time of its first appearance in the market as a competitor of butter there has been a constant attempt to create and foster a prejudice against it as an unwholesome article made from unclean refuse of various kinds—a vehicle for disease germs and a disseminator of tapeworms and other unwelcome parasites. It has been said to be made from soap grease, from the carcasses of animals dead of disease, from grease extracted from sewer sludge, and from a variety of other articles equally unadapted to its manufacture. The publication of a great mass of untruth can not fail to have at least a part of its desired effect, not only on the minds of the ignorant, but even on those of persons of more than average intelligence. So a

prejudice was created against this valuable food product, but it is becoming gradually less pronounced.

"The truth concerning oleomargarine is that it is made only from the cleanest materials in the cleanest possible manner; that it is equally as wholesome as butter; and that when sold for what it is and at its proper price it brings into the dietary of those who can not afford the better grades of butter an important fat food much superior in flavor and keeping property to the cheaper grades of butter, which bring a higher price. Oleomargarine can not be made from rancid fat, and in its manufacture great care must be exercised to exclude any material, however slightly tainted. * * * It contains, as a rule, less water than does genuine butter, and consequently any difference in food value is in its favor. It undergoes decomposition much more slowly, and, indeed, may be kept many months without becoming rancid. Much has been said concerning its digestibility, and alarmists have gone so far as to claim that it is very indigestible, and likely to prove a prolific cause of dyspepsia, quite forgetting that the materials from which it is made have held a place in the dietaries of all civilized people since long before butter was promoted from its position as an ointment to that of an article of food. Many comparative studies have been made on this point, and the results in general have shown that there is little, if any, difference. H. Luhrig has proved by careful experiment that the two are to all intents and purposes exactly alike in point of digestibility." (Practical Hygiene.)

Prof. C. F. Chandler, professor of chemistry at Columbia College, New York:

"I have studied the question of its use as food, in comparison with the ordinary butter made from cream, and have satisfied myself that it is quite as valuable as the butter from the cow. The product is palatable and wholesome, and I regard it as a most valuable article of food."

Prof. George F. Barker, of the University of Pennsylvania:

"Butterine is, in my opinion, quite as valuable as a nutritive agent as butter itself. It is perfectly wholesome, and is desirable as an article of food. I can see no reason why butterine should not be an entirely satisfactory equivalent for ordinary butter, whether considered from the physiological or commercial standpoint."

Prof. Henry Morton, of the Stevens Institute of Technology, New Jersey:

"I am able to say with confidence that it contains nothing whatever which is injurious as an article of diet, but, on the contrary, is essentially identical with the best fresh butter, and is superior to much of the butter made from cream alone which is found in the market. The conditions of its manufacture involve a degree of cleanliness and consequent purity in the product such as are by no means necessarily or generally attained in the ordinary making of butter from cream."

Prof. S. W. Johnson, director of the Connecticut Agricultural Experiment Station, and professor of agricultural chemistry in Yale College, New Haven:

"It is a product that is entirely attractive and wholesome as food, and one that is for all ordinary and culinary purposes the full equivalent of good butter made from cream. I regard the manufacture of oleomargarine as a legitimate and beneficent industry."

Prof. S. C. Caldwell, of Cornell University, Ithaca, N. Y.:

"While not equal to fine butter in respect of flavor, it nevertheless contains all the essential ingredients of butter, and since it contains a smaller proportion of volatile fats than is found in genuine butter, it is, in my opinion, less liable to become rancid. It can not enter into competition with fine butter, but so far as it may serve to drive poor butter out of the market, its manufacture will be a public benefit."

Prof. C. A. Goessmann, of Amherst Agricultural College:

"Oleomargarine butter compares in general appearance and in taste very favorably with the average quality of the better kinds of dairy butter in our markets. In its composition it resembles that of ordinary dairy butter, and in its keeping quality, under corresponding circumstances, I believe it will surpass the former, for it contains a smaller percentage of those constituents which, in the main, cause the well-known rancid taste and odor of a stored butter."

Prof. Charles P. Williams, professor in the Missouri State University:

"It is a pure and wholesome article of food, and in this respect, as well as in respect to its chemical composition, fully the equivalent of the best quality of dairy butter."

Prof. J. W. S. Arnold, professor of physiology in the University of New York:

"I consider that each and every article employed in the manufacture of oleomargarine butter is perfectly pure and wholesome, that oleomargarine butter differs in no essential manner from butter made from cream. In fact, oleomargarine butter possesses the advantage over natural butter of not decomposing so readily, as it contains fewer volatile fats. In my opinion, oleomargarine is to be considered a great discovery, a blessing for the poor, and in every way a perfectly pure, wholesome, and palatable article of food."

Prof. W. O. Atwater, director of the United States Government Agricultural Experiment Station at Washington:

"It contains essentially the same ingredients as natural butter from cow's milk. It is perfectly wholesome and healthy, and has a high nutritious value."

Prof. Henry E. Alvord, formerly of the Massachusetts Agricultural College, and president of the Maryland College of Agriculture, and Chief of the Dairy Division of the United States Department of Agriculture, and one of the best butter makers in the country:

"The great bulk of butterine and its kindred products is as wholesome, cleaner, and in many respects better, than the low grades of butter of which so much reaches the market."

Prof. Paul Schweitzer, Ph. D., LL. D., professor of chemistry, Missouri State University:

"As a result of my examination, made both with the microscope and the delicate chemical tests applicable to such cases, I pronounce butterine to be wholly and unequivocally free from any deleterious or in the least objectionable substances. Carefully made physiological experiments reveal no difference whatever in the palatability and digestibility between butterine and butter."

Judge Hughes, of the federal court of Virginia, in a decision:

"It is a fact of common knowledge that oleomargarine has been subjected to the severest scientific scrutiny, and has been adopted by every leading government in Europe as well as America for use by their armies and navies. Though not originally invented by us, it is a gift of American enterprise and progressive invention to the world."

The CHAIRMAN. Mr. Burleson, you may present your next witness.

Mr. BURLESON. The next witness will be Doctor Wiley.

STATEMENT OF DR. HARVEY W. WILEY, CHIEF OF THE BUREAU OF CHEMISTRY, DEPARTMENT OF AGRICULTURE.

The CHAIRMAN. Mr. Burleson, will you interrogate Doctor Wiley?

Mr. BURLESON. Doctor, will you state to the committee your name and your official position?

Doctor WILEY. H. W. Wiley, Chief of the Bureau of Chemistry, of the Department of Agriculture.

Mr. BURLESON. And your length of service?

Doctor WILEY. I am entering my twenty-eighth year of service.

Mr. BURLESON. Doctor Wiley, state to the committee if at any time during your tenure of office you have had occasion to investigate the qualities of oleomargarine; and if so, when did you first start your investigations, and what has been the result of those investigations?

Doctor WILEY. I may state to the committee that while a great many investigations have been made in the bureau, I never personally made them—the analyses, and so forth—but almost from the beginning of my service, realizing the frauds which were practiced upon the people through the sale of oleomargarine as butter, we began a series of investigations for the purpose of testing the various methods which were in use for distinguishing between these articles, necessarily involving their chemical constitution and properties, for the purpose of enabling us to distinguish, if the time should ever come when we were called upon to do so, legally, between the genuine butter and the substitute—the oleomargarine. That, I should say, began within a year, or a year or two, after I took the position; about 1884 or 1885, somewhere along there.

Mr. BURLESON. Doctor Wiley, have you ever had occasion to compare the chemical constituents of oleomargarine with the chemical constituents of butter?

Doctor WILEY. That is the method, Mr. Chairman, by which we distinguish the one from the other—by comparing their principal chemical characteristics.

Mr. BURLESON. What is the difference between the chemical properties of oleomargarine and butter, in brief?

Doctor WILEY. Well, of course we could not determine that unless we knew just what the oleomargarine was made of. It can be made of a good many different things; but assuming that it is made from the fat of beeves and of hogs, for the sake of illustration, we determine first the characteristics of lard, which is the fat of the hog, and then the chemical characteristics of beef fat. Then we would expect to find in a mixture of these two fats properties which would be practically the main chemical and physical properties of the two ingredients in the proportion in which they are used. As the mixture does not produce any chemical union, it is merely a mechanical mixture. In the butter fat we find very slight differences from year to year, and from cow to cow. The properties of butter are pretty uniform the world over; and the distinguishing difference of a chemical character is the presence in butter of a much larger percentage of volatile acids, volatile fatty acids, than in oleomargarine. I may illustrate by saying that in oleomargarine made as I have described the percentage of fatty acids that are volatile in a current of steam would be probably less than 1 per cent, while in butter the quantity of volatile acids volatilized in the same way would be well up to 5 per cent.

The CHAIRMAN. What is the food value of those acids?

Doctor WILEY. The acids alone have not as much food value as they have in the condition in which they exist in the respective fats. There is very little free acid in butter—that is, fresh butter. There is very little free acid in freshly made oleomargarine. The acids are united with glycerin and form what are known as glycerides, and the value of these glycerides as a food material is very high. It is, however, you will understand, not a complete food. The fat is not a tissue builder. It contains no nitrogen—at least, a mere trace. It is oxidized in the body and furnishes heat and energy. We measure the heat of foods by what we call calories. A calory is the amount of heat necessary to raise a unit weight of water 1° of any scale that may be selected. The ordinary calory which the scientific man uses is the amount of heat necessary to raise 1 kilogram of water 1° C.; or 1 gram of water 1° C. The one is called a large calory and the other a small calory. Measured by that test, sugar has in round numbers 4,000 calories. Protein, the ordinary nitrogen element of our food, whether derived from a plant or animal, has, in round numbers, say, 5,500 calories; and a fat, whether vegetable or animal, has, in round numbers, about 9,200 calories—that is, a unit weight of fat will furnish two and a quarter times more heat than the same weight of sugar, and almost twice as much heat as the same weight of protein.

So it is a food value of very high character, from its heat-forming and energy-furnishing character.

Mr. BURLESON. Are you familiar with the processes by which oleomargarine is manufactured?

Doctor WILEY. I once visited an oleomargarine factory, but it was many years ago. I would not attempt to describe how it is made, accurately.

Mr. BURLESON. Doctor Wiley, considering the chemical properties of the two products, butter and oleomargarine, which will deteriorate or begin to deteriorate first; and in which is the deterioration most rapid?

Doctor WILEY. Well, if you mean by "deterioration" rancidity, which is the common first deterioration of a fat, butter will under given conditions deteriorate more rapidly than oleomargarine, because these glycerides which furnish volatile acids are more easily split, hydrolized, than those that do not furnish volatile acids.

Mr. BURLESON. Now, having stated the component parts of oleomargarine, will you give the committee your opinion as to whether or not it is a wholesome and nutritious food product?

Doctor WILEY. I can give my opinion, but not by actual feeding experiments. Those have been practiced, though, on men for so many years that they hardly need to be repeated. I consider all the ordinary animal and vegetable fats derived from healthy plants and healthy animals as wholesome and nutritious.

Mr. BURLESON. You say you have never made any experiments yourself?

Doctor WILEY. I never have made any feeding experiments. The way to find out by comparison would be to feed men, under the conditions which obtained in the experiments I made on preservatives—similar quantities of different fats, and study their digestive effects. That has been done, but I have not done it myself, nor has it been done under my supervision.

Mr. BURLESON. In all the investigations that have been made in your bureau, under your direction, or by you, have you at any time discovered any ingredient or component part of oleomargarine that was deleterious or hurtful, or that would prove deleterious or hurtful to a human being?

Doctor WILEY. We have never investigated oleomargarine from that point of view. All we have ever used is the pure, clean article, which, of course, could not be considered to be deleterious or unwholesome—no more than butter that is clean and pure would be considered deleterious and unwholesome. So I have never investigated any of the allegations which have been made respecting the low grade of materials which were said to be put in the oleomargarine. I can only say, though, as an expert, that if oleomargarine is made of diseased material or dirty material, it is certainly unwholesome and non-nutritious to that extent.

Mr. BURLESON. That is, if it is made of those materials.

Doctor WILEY. If it is made from that; yes.

Mr. BURLESON. Are the investigations made by the Bureau of Animal Industry of butter and dairy products made through your bureau or made under the direction of the Bureau of Animal Industry?

Doctor WILEY. They were made solely in the Bureau of Animal Industry. We had nothing to do with them at all. Our investigations were for an entirely different purpose. As I said at the beginning, they were to enable us to ascertain with certainty whether or not a substitute was sold for butter.

Mr. BURLESON. Are you familiar with the regulations, Doctor Wiley, in force through the Department of Agriculture for the transportation of oleomargarine and in the sale of it between the States?

Doctor WILEY. I am not. I have glanced over those regulations, but not having taken any part in formulating them or in their execu-

tion, I have not studied them in any way so that I could say I understand them.

Mr. BURLSON. I believe that is all I wish to ask.

The CHAIRMAN. I would like to ask one or two questions, Doctor Wiley, which are of rather an academic nature, but which I think will interest the committee, and which you may be able to answer. Can you tell us who first invented or devised the process by which oleomargarine is manufactured?

Doctor WILEY. I think it was a Frenchman by the name of Mège-Mouriès, who, perhaps nearly one hundred years ago, first discovered that animal fats could be put up in this way.

The CHAIRMAN. Was it made commercially in this country first, or in Europe?

Doctor WILEY. I think it was made in France at first. That is my distinct recollection, though it has been a long while since I have read the history of the case.

The CHAIRMAN. What does the word "margarine" mean?

Doctor WILEY. At one time chemists supposed there was a glyceride called "margarine." These fatty acids have different names. Common vinegar, acetic acid, is the first member of the series; so it is not strange that oil and vinegar will mingle, as they belong to the same chemical family. There are a lot of volatile acids, such as butyric acid, lauric acid, and acids of that kind. Then, next, there are acids like oleic acid and stearic acid; and there used to be the margarinic acid; but chemists do not hold to the existence of that intermediate member of the family any longer. But the name arose in the same way that these other names arose, as the supposed name of an acid or glyceride.

The CHAIRMAN. Do you lay down any rule by which the difference between oleomargarine and butter could be detected by chemical analysis?

Doctor WILEY. I think there is no question of the ability of a chemist to distinguish between the two.

The CHAIRMAN. Without making an analysis?

Doctor WILEY. No; not without making an analysis. No.

The CHAIRMAN. That is what I was asking—whether there was any way aside from making an analysis by which the difference could be distinguished.

Doctor WILEY. I think in a case like butter we could tell by the taste, largely; though I have known some very good experts that have been fooled in regard to the matter.

Mr. LAMB. This committee has been.

Doctor WILEY. I think I could tell the difference between them. I do not like oleomargarine, and I do like butter.

The CHAIRMAN. Are there any other questions?

Mr. PLUMLEY. I want to ask if this oleomargarine, if it is made of animal fat, or beef fat, is as likely to be unhealthful, as containing tuberculous material, as butter obtained from the milk of the cow?

Doctor WILEY. I should say if it was made from tuberculous cattle, it certainly would be.

Mr. PLUMLEY. Do you think of any way in which it would be probably more safe if it were made of tuberculous cattle than butter would be if made from milk from tuberculous cattle?

Doctor WILEY. I think if the milk cows were inspected as carefully as the beef cattle are, there would be the same safety in both.

Mr. BURLESON. Right on that point, Doctor Wiley: Under the law, beef cattle are inspected, are they not?

Doctor WILEY. Yes, sir; I believe so.

Mr. BURLESON. There is a very rigid inspection?

Doctor WILEY. Yes, sir.

Mr. BURLESON. And every particle of material that goes into the manufacture of oleomargarine undergoes this same inspection, does it not?

Doctor WILEY. So I am told; yes, sir.

Mr. BURLESON. Is there any inspection of the material that goes into the making of butter?

Doctor WILEY. There is in some localities, I think. In the District of Columbia they do not allow any milk or cream to be sold that does not come from an inspected herd.

Mr. LAMB. The same thing is true in Virginia.

Doctor WILEY. But I do not think that applies to butter in the District of Columbia, although it does apply to milk and cream.

Mr. BURLESON. Is there any federal law within your knowledge requiring the inspection of butter or milk that enters into interstate commerce?

Doctor WILEY. No; I do not know of any such federal law.

Mr. BURLESON. Another proposition, Doctor Wiley: The gentleman from Vermont asked you whether or not there is as much danger of oleomargarine being contaminated or infected by tubercular bacilli as butter. As a matter of fact, oleomargarine is subjected in the process of its making to a very high heat, is it not?

Doctor WILEY. I think the fat is rendered before it is made, both from the hog and from the steer; and that requires a high temperature.

Mr. BURLESON. If there were typhoid bacilli or tubercular bacilli in it, would they be destroyed or not in that process of manufacture?

Doctor WILEY. Those pathogenic germs are usually destroyed by a temperature—

Mr. BURLESON. A temperature lower than is necessary to render?

Doctor WILEY. Lower than the rendering point; yes, sir.

Mr. BURLESON. Lower than the rendering point?

Doctor WILEY. Yes, sir.

Mr. BURLESON. Consequently, you can draw but one conclusion from it—that the chances are that there would be no tubercular bacilli in oleomargarine?

Doctor WILEY. Except dead ones.

Mr. BURLESON. Except dead ones?

Doctor WILEY. Yes.

Mr. BURLESON. There would be no harm from dead ones, would there?

Doctor WILEY. I should prefer not to eat them.

Mr. BURLESON. I might prefer it myself; but you would much prefer a dead one to a live one, would you not?

Doctor WILEY. Yes; I would prefer a graveyard to an aquarium, every time.

Mr. BURLESON. One other question: Have you ever had occasion to analyze butter for the purpose of ascertaining the character of the coloring matter that is used for coloring it?

Doctor WILEY. We have done it repeatedly in our bureau; yes, sir.

Mr. BURLESON. I was misled by your answer when you said that those investigations were made by the Bureau of Animal Industry. What is this coloring matter that is used for the coloring of butter?

Doctor WILEY. Until lately it was largely a coal-tar dye, any yellow dye. Naphthol yellow S and other azo dyes of a yellow color were generally employed.

Mr. BURLESON. Are they nutritious substances?

Doctor WILEY. No, they are not nutritious at all; but the amount which is used in the coloring is almost infinitesimal—almost immeasurably small. I think most of the butter to-day is colored with anatto, or anotto it is sometimes called; it is spelled both ways. That is a vegetable color; and when prepared in a cleanly way and ground with a clean oil I do not think there is any objection to it on the score of health. I have always been opposed, however, to the coloring of butter on other grounds than health.

Mr. BURLESON. On the ground that it covers the defects in the material?

Doctor WILEY. On the ground, first, that it is not necessary; second, it spoils butter to my eye to have it an unnatural color; and, third, on the ground that nature is the best judge of what her products should be as to color.

Mr. BURLESON. State to the committee, Doctor, whether or not it is useful for the purpose of covering the defects in the butter—inferiority in the butter?

Doctor WILEY. I do not know what summer butter is colored for. It is usually colored. But winter butter, when colored, resembles the summer butter in color more than it did before.

The CHAIRMAN. But any kind of butter can be colored, whether it is good or bad, can it not?

Doctor WILEY. Oh, yes. It does not make any difference about the quality of the butter; it always takes the color. I never could tell what butter was colored for. The high-priced butters are uncolored; and it seems to me the dairymen are standing in their own light when they color their products.

Mr. BURLESON. Doctor Wiley, if inferior butter is colored with this anatto—which you say is the most harmless of all the coloring substances used—will it not serve to conceal the inferiority of that butter, and give it the appearance of a superior quality?

Doctor WILEY. If you associate light color with inferiority, which I do not.

Mr. BURLESON. Well, of course, you may have a taste that is entirely different from that of other people. You will admit that the larger percentage of the butter is colored?

Doctor WILEY. Yes; and that is the reason I say I do not know why it is done.

Mr. BURLESON. Either it enables the dairyman to sell it for a higher price, or he colors it for the purpose of appealing to the taste of his patrons?

Doctor WILEY. I think that is the real reason, probably.

Mr. BURLESON. Regardless of the purpose animating the dairyman, if he colors an inferior article of butter, does not that coloration serve to conceal the inferiority of the quality, and give it the appearance of a superior quality of butter?

Doctor WILEY. It would if the inferior butter happened to be white; but it is just as apt to be yellow as it is to be white if it is inferior butter. Butter is not inferior, to my taste, because it is light in color. It may be sweet, pure, wholesome butter, and usually is. So is summer butter, which is yellow. But there may be bad butter in summer and bad butter in winter, each having its distinct color.

Mr. BURLESON. But if you took four or five different kinds of butter of different colors, and mixed them together or combined them, the mixture would be streaked, would it not?

Doctor WILEY. Unless you mixed them well it would.

Mr. BURLESON. Would it not be streaked anyway, regardless of how you mixed it?

Doctor WILEY. No; I think you could mix it so it would not be streaked.

Mr. BURLESON. But it would be very much easier to give it a uniform color, would it not, with this anatto?

Doctor WILEY. Yes, sir; I think it would.

Mr. BURLESON. Now, going back to the coloring matter which you spoke of a moment ago: You say you think anatto is used now instead of these other chemical substances?

Doctor WILEY. Yes, sir.

Mr. BURLESON. What reason do you have for believing that, Doctor?

Doctor WILEY. I think the reason is this: The Department of Agriculture issued a bulletin, a couple of years or three years ago, in which it said that none but certain coal-tar dyes should be permitted in food products, and gave a list of seven dyes that could be used. It so happened that not one of those dyes was suitable for dissolving in oil, and therefore would not be suitable for coloring butter. So the dairymen had to either take the risk of violating this suggestion—for it was not a law, but a suggestion—and going contrary to the Department of Agriculture, and using a color which the department said they should not have, or else they had to take a different kind of color. And they wisely, I think, went back to the vegetable coloring. I think it was a very wise move.

Mr. BURLESON. Was that bulletin issued by the Agricultural Department, the bulletin in which the statement was made that coloring matter had been used taken from a bottle marked "Poison," and "To be kept beyond reach of children?"

Doctor WILEY. No, sir; there is nothing of that kind in the publication I refer to. It was a food-inspection decision—No. 76.

Mr. BURLESON. Did you ever secure any of this coloring matter before it was used in butter, in order to examine it?

Doctor WILEY. Any of the coal-tar dyes?

Mr. BURLESON. Yes.

Doctor WILEY. Oh, we have had one man in our bureau working on nothing else for a long while. He has found, according to his report, that practically none of the coal-tar dyes are safe except those which are permitted by this rule. They are likely to contain poisonous matter at some time or other. Therefore we confine the use to those which have never been found by anybody to contain this poisonous matter. That is the reason we selected these seven—because we could not find anything against their character; while

every other one of the big family had been condemned by somebody at some time or other. And as a measure of safety to the public we said that we would not countenance the use of any other coal-tar dyes except those that had a good character.

Mr. HAUGEN. Are you familiar with the process of making oleomargarine?

Doctor WILEY. No, sir. I said a while ago that I had never been in a factory but once, and that was a number of years ago, and they showed me then how it was made.

Mr. HAUGEN. You are familiar with the ingredients that are used in making it?

Doctor WILEY. No; I am not even familiar with the ingredients. I do not know what they use.

The CHAIRMAN. I would suggest that there are gentlemen here who have been engaged in the manufacture of oleomargarine for a great many years and who will probably be able to answer all those questions in great detail.

Mr. FLANDERS. Doctor Wiley, do you know that in the manufacture of some oleomargarine the makers put in milk or cream or butter?

Doctor WILEY. Yes; I think that is true.

Mr. HAUGEN. Just a minute. I should like to call Doctor Wiley's attention to Secretary Gage's report on the ingredients of 80,000,000 pounds of oleomargarine made in 1889. He says that 14,200,576 pounds of milk and 4,342,904 pounds of butter oil were used in the manufacture of 80,000,000 pounds. That is the statement made by Mr. Gage in his report.

Doctor WILEY. In our examinations of oleomargarine we have found very little butter, because we could tell by the amount of volatile matter which was in it. But we did find butter, at some times, in some considerable quantities.

Mr. FLANDERS. I understood you to say, Doctor, that you understood that milk was sometimes used and cream was sometimes used?

Doctor WILEY. Yes; I have a general knowledge of what is used of those ingredients.

Mr. FLANDERS. And if it is true that these substances are used, if they have bacteria in them, would not the oleomargarine be subject to having bacteria, as well as butter?

Doctor WILEY. Undoubtedly.

Mr. FLANDERS. Then the idea that the gentleman tried to bring out, that oleomargarine would be free from that possibility, would not be necessarily true, would it?

Doctor WILEY. Only of those two items of which I spoke; yes.

Mr. FLANDERS. Unless it was made entirely of fats not having either cream, milk, or butter in them?

Doctor WILEY. I think the cream, milk, or butter would be just as apt to have pathogenic germs in it when used for that purpose as when used for making butter; just the same.

Mr. FLANDERS. One more question, Doctor. I may not get this question just as you put it; but I understood you to say that you considered all fats, vegetable and animal, to be nutritious and wholesome?

Doctor WILEY. No; I did not quite say that. I said all clean, edible fats. There are a lot of fats that are not edible.

Mr. FLANDERS. I knew I did not have the question quite right. Now I want to ask you this: Do you consider that all of them are nutritious and wholesome in the same degree?

Doctor WILEY. No; each one would have its own particular value, which would be determined by analysis.

Mr. FLANDERS. Yes. Then you do not mean by that statement that oleomargarine made of these other fats, while it is wholesome and nutritious, necessarily has the same degree of wholesomeness and nutrition that butter and other fats have?

Doctor WILEY. In our examinations we found they were about the same. There was scarcely any difference between them.

Mr. FLANDERS. But answer my question, if you will. You do not mean by that answer that they have the same degree of wholesomeness and nutrition—by your answer itself?

Doctor WILEY. Not necessarily; no.

Mr. FLANDERS. You said that butter, as I understood, had an amount of—you did not use the word “butyric,” but you used the word “volatile” acids, did you?

Doctor WILEY. Volatile acids; yes.

Mr. FLANDERS. In greater amount than oleomargarine had?

Doctor WILEY. Yes.

Mr. FLANDERS. Does oleomargarine have any constituent that butter also has, but has it in greater quantity? For instance, stearine?

Doctor WILEY. I think oleomargarine has more stearine in it than butter.

Mr. FLANDERS. I believe you testified seven or eight years ago that it had from 16 to 20 per cent, did you not?

Doctor WILEY. I remember, I think, saying something about like that.

Mr. FLANDERS. And that butter has about how much?

Doctor WILEY. About 2 or 3 per cent, or less.

Mr. FLANDERS. Oleomargarine has about how much butyric or volatile acid?

Doctor WILEY. I said not to exceed 1 per cent, usually less, of volatile acid; not necessarily all butyric acid.

Mr. FLANDERS. And butter has about how much?

Doctor WILEY. Five per cent.

Mr. FLANDERS. Then they are not identical products?

Doctor WILEY. No, sir; not identical.

Mr. FLANDERS. And if those ingredients that are in different proportions have different values, the two commodities would have a different food value, would they not?

Doctor WILEY. That might be; yes, sir.

Mr. FLANDERS. And if one is not as easily digested as the other—if one is harder of digestion—then the one that had the most of the fat in it that was hardest to digest would be harder to digest, would it not?

Doctor WILEY. Naturally.

Mr. FLANDERS. And that might call for greater effort on the part of the system to get nutrition out of it than it would out of the one more easily digested; might it not?

Doctor WILEY. Yes, sir.

STATEMENT OF DR. CHARLES A. CRAMPTON, OF THE BUREAU OF INTERNAL REVENUE, TREASURY DEPARTMENT, WASHINGTON, D. C.

The CHAIRMAN. Doctor Crampton, will you state your name and your official position to the stenographer?

Doctor CRAMPTON. Charles A. Crampton, chemist in the internal-revenue office.

The CHAIRMAN. Mr. Burleson, will you proceed with your examination?

Mr. BURLESON. Doctor, what official position did you hold in 1902?

Doctor CRAMPTON. I was chemist in the internal-revenue office at that time.

Mr. BURLESON. How long had you held that place at that time, Doctor?

Doctor CRAMPTON. I went into the internal-revenue office in 1890. Prior to that time I was for seven years in the Department of Agriculture, under Doctor Wiley. In 1890 I entered the internal-revenue office. I have been there ever since. Four years ago, however, I was put in charge of the work in connection with denatured alcohol. Since that time my work has been along that line.

Mr. BURLESON. Was the enforcement of the oleomargarine law of 1886 within your jurisdiction, and subsequently the enforcement of the act of 1902?

Doctor CRAMPTON. Yes, sir.

Mr. BURLESON. Have you had occasion, Doctor, at any time, to analyze oleomargarine and butter and other food products?

Doctor CRAMPTON. Yes, sir; to the extent that the analysis should determine as to whether it was oleomargarine or butter, and to some degree, in special cases, the character of the oleomargarine.

Mr. BURLESON. Is your bureau chargeable in any sense with the duty of inspecting the processes of manufacture of oleomargarine?

Doctor CRAMPTON. They have that privilege.

Mr. BURLESON. Did you exercise that privilege at any time?

Doctor CRAMPTON. At certain times; yes, sir.

Mr. BURLESON. I should like you to state to the committee the result of your investigations in the examination of oleomargarine, as to whether it is a pure, wholesome, nutritious food product.

Doctor CRAMPTON. I can only state in a very general way. I have never had occasion to make a specific investigation along that line. But, speaking in a general way and from what I have seen of the product during these many years of supervision, I should say that it was, as made, a very healthful product.

Mr. BURLESON. Were you chargeable with the enforcement of the law of 1886 and with the investigation of the violations of that law?

Doctor CRAMPTON. Yes, sir.

Mr. BURLESON. Have you with you your reports showing the extent to which the law of 1886 was violated?

Doctor CRAMPTON. No, sir; I could not give you that.

Mr. BURLESON. Have you the records on that subject?

Doctor CRAMPTON. The records would be in the office of internal revenue, but I have not them. They would not be available unless I made a special search for them. The matter has been recently given out by the commissioner in annual reports, as the gentleman

read early in the hearing. The last annual report, for example, gave certain statistics as to violations.

Mr. BURLESON. That report instituted a comparison between the number of violations of the law of 1886 and the number of violations of the law of 1902. Did you compile those statistics yourself?

Doctor CRAMPTON. No, sir. They are compiled in the office by the proper officer having control of those things.

Mr. BURLESON. Who has charge of those statistics?

Doctor CRAMPTON. Mr. Keith, I believe, has charge of oleomargarine in general. The violations, of course, come also under the law division, and to a certain extent under the Internal Revenue Agents' Division.

Mr. BURLESON. I thought you had the information that it seems Mr. Keith has?

Doctor CRAMPTON. The part that I would play in connection with such matters would be to examine the samples and to report, as to whether or not——

Mr. BURLESON. Were all of these investigations that were made made under your direction?

Doctor CRAMPTON. Only the scientific investigations.

Mr. BURLESON. To what extent, Doctor, have you analyzed the samples of oleomargarine that have been brought into the bureau? To what extent have they been analyzed in your bureau?

Doctor CRAMPTON. The samples are sent into the Bureau of Internal Revenue, to the laboratory, for determination as to whether or not the samples are oleomargarine—that is, whether the sample is oleomargarine or butter—in order to form the basis of a prosecution if it is found to have been sold in violation of the law. The ordinary chemical examination only covers that much ground. As I said previously, in certain cases certain investigations were made. For instance, at the time palm oil was used as a coloring matter for oleomargarine the matter was investigated more carefully. Certain oleomargarine factories were carefully investigated and under supervision for some little length of time, and there was litigation in the courts on the subject.

Mr. BURLESON. Taking into consideration all of these samples that have been subjected to an investigation by your bureau, have you ever at any time found any unhealthy or unwholesome or unnutritious substance in oleomargarine?

Doctor CRAMPTON. No; I never have.

Mr. BURLESON. Have you had occasion to investigate butter?

Doctor CRAMPTON. To a certain extent.

Mr. BURLESON. You have analyzed it for what purpose, Doctor?

Doctor CRAMPTON. In the earlier years the analysis would be only to determine whether a sample was oleomargarine or butter. In case it was butter, nothing would be done with it, of course. In case it was oleomargarine, a prosecution would be begun. It would be simply a matter of distinguishing as to the character of the sample—determining as to its character.

Mr. BURLESON. Was it necessary or is it necessary to——

Doctor CRAMPTON. If you will excuse me, Mr. Burleson, I will complete my answer.

Mr. BURLESON. Certainly.

Doctor CRAMPTON. Since the passage of the last law (the law that is now in effect) the examination of butter has been a part of the duties of the Internal Revenue Office; that is, the examination of butter to determine whether or not it is renovated, or whether or not it is adulterated.

Mr. BURLESON. What has been the result of those investigations, Doctor?

Doctor CRAMPTON. I can only speak as to the investigations prior to the last four years, because, as I said before, during the last four years I have not been in charge of that work. Prior to that time the analyses of samples of butter in the laboratory were made to determine whether or not it contained excessive moisture, whether or not it contained substances added for the purpose of increasing the content of moisture or of cheapening the product under the terms of the law, which classes such butter as adulterated.

Mr. BURLESON. The adulteration being dependent upon the quantity of the moisture that the butter contains? That is one form of adulteration?

Doctor CRAMPTON. That is one form.

Mr. BURLESON. Did you at any time analyze butter with a view of ascertaining the coloring matter that it contained?

Doctor CRAMPTON. Yes, sir; not very often the coloring matter of butter, because there was no necessity for making that investigation under the law; and, as a rule, the work has been of such quantity as to preclude unnecessary investigations and analyses. But in the case of oleomargarine the determination of the coloring was a very important point, for upon that depended the classification of the oleomargarine as to the rate of tax that it paid.

Mr. BURLESON. As to whether it was colored or uncolored?

Doctor CRAMPTON. As to whether it was colored or uncolored.

Mr. BURLESON. I will say to the chairman of the committee that I had thought Doctor Crampton was the witness that had the information that it seems that Mr. Keith has, and I therefore have no further questions to ask Doctor Crampton.

The CHAIRMAN. I should like to ask, Doctor Crampton, whether your investigation has gone to the extent of determining the presence or absence of disease germs, either as to butter or oleomargarine?

Doctor CRAMPTON. No, sir. The investigation has not been carried on along bacteriological or biological lines at all. I have here a book, a very recent authority on the subject of oleomargarine. I do not know whether the committee would care to have it or not. It answers certain questions that have been asked. It is a very recent work on fats and oils. It answers certain questions that have been asked as to the composition of oleomargarine.

The CHAIRMAN. I think we can ascertain that from the practical manufacturers later on.

Doctor CRAMPTON. You can probably get all of that in another form. I simply brought this in case such questions should be asked.

The CHAIRMAN. I should be glad if you will give the name of the author and the title of the book to the stenographer.

(Doctor Crampton stated to the stenographer that the name of the book was Chemical Technology and Analysis of Oils, Fats, and Waxes, by Lewkowitsch.)

Mr. BURLESON. I should like to ask you to state the number of factories engaged in the manufacture of oleomargarine, if you know

it. Do you know the number of factories engaged in the manufacture of oleomargarine?

Doctor CRAMPTON. No, sir; I do not.

Mr. LEVER. I should like to ask the doctor whether or not his examination has gone to the extent of determining in his own mind whether or not oleomargarine is a wholesome food product?

Doctor CRAMPTON. Why, I think that should be accepted, at this stage of the matter, without investigation.

Mr. LEVER. Is it a healthful product?

Doctor CRAMPTON. Yes, sir.

Mr. HAUGEN. Is it on a par with butter?

Doctor CRAMPTON. No; I should not consider it on a par with good butter.

Mr. LEVER. Do you consider it on a par with good butter in point of healthfulness?

Doctor CRAMPTON. As far as being healthful or unhealthful is concerned, I should say yes. There might be some question as to the nutrition, part for part, and as to the digestibility, part for part. But as to the question of healthfulness or unhealthfulness, I should say that the two products were on a par.

Mr. LEVER. Have you ever conducted any investigation to determine whether or not it is very much more indigestible than butter?

Doctor CRAMPTON. No, sir; I have never made digestibility experiments.

Mr. HAUGEN. If it is indigestible, would not that affect one's health? Would not that make it unhealthful?

Doctor CRAMPTON. Oh, yes; if it were not digestible it would affect the health. But it might have a very slight effect on the health, which would not be ascertainable for some length of time.

Mr. LEVER. But you have never made any investigation for that?

Doctor CRAMPTON. No, sir.

Mr. HAUGEN. In what respect do you consider butter superior to oleomargarine?

Doctor CRAMPTON. It has a larger content of these volatile or fragrant glycerides, fatty glycerides, and as long as those are fresh they are a little more palatable than the tasteless glycerides which make up the larger part of the oleomargarine.

Mr. HAUGEN. You are familiar with the process of manufacturing oleo?

Doctor CRAMPTON. Yes, sir.

Mr. HAUGEN. And also as to the ingredients?

Doctor CRAMPTON. Yes, sir; to a considerable extent.

Mr. HAUGEN. To what extent is butter or cream used in the manufacture of oleo?

Doctor CRAMPTON. I think milk is used very largely in the manufacture of oleomargarine—I should rather say universally. That is, it is almost always used.

Mr. HAUGEN. Does the quantity affect the quality of the oleo?

Doctor CRAMPTON. To a certain extent, yes; but large quantities are not ordinarily used.

Mr. HAUGEN. The larger the quantity the better the oleo, is it not?

Doctor CRAMPTON. No, sir; not necessarily; because only a certain portion of the milk or cream goes into the oleomargarine.

Mr. HAUGEN. I will read to you a statement from Mr. Swift, who is a manufacturer of oleo:

Creamery butterine is usually composed of 25 per cent creamery butter, 40 per cent neutral, 20 per cent oleo oil, and the balance milk, cream, and salt. Dairy butterine is different from creamery only in the proportions. It is a cheaper product, and its proportion of butter is about 10 per cent.

Doctor CRAMPTON. He is describing different brands of oleomargarine. There are different grades.

Mr. HAUGEN. The more butter that is used, or the more cream that is used, the better the grade, is it not?

Doctor CRAMPTON. Yes. I was making a distinction between the amount of milk and cream that is used and the amount of butter that is used. If you use butter and incorporate that into oleomargarine, of course it all goes there; but if you use milk or cream, only a portion of that goes into the oleomargarine. The rest would be like the buttermilk in butter; it does not go into it.

The CHAIRMAN. I should like to inquire whether, in the course of your investigations, you have ever found oleomargarine used as an adulterant of butter?

Doctor CRAMPTON. Oh, yes. There are mixtures of the two. All proportions, or almost all proportions, have been found in the work of the internal-revenue office. It has been made half and half and two-thirds and one-third—all sorts of proportions.

Mr. BEALL. What is that mixture called?

Doctor CRAMPTON. It is called, under the law, "oleomargarine." Any proportion of foreign fat mixed with butter is oleomargarine.

Mr. BEALL. But what was it called by those who were putting it on the market? What were they putting it on the market as?

Doctor CRAMPTON. In those cases of violations they put it on the market as butter. That is usually the case. That is to say, a reputable manufacturer does not make products like that in his factory. The making of such products is usually the work of small dealers, who buy oleomargarine and buy butter and mix them in varying proportions.

The CHAIRMAN. To what extent have such frauds been practiced, as determined by your experience?

Doctor CRAMPTON. To a very large extent. I have no way of expressing just what the quantity of such frauds is; but the frauds have been very numerous, especially within late years.

The CHAIRMAN. Has this product come, as a rule, from creameries, or does it come from what might be called individual makers of butter?

Doctor CRAMPTON. Usually individuals, and not makers of butter—individuals who engage in that business on account of the large profits that are offered and who can not be classified as belonging to any large class of users, like dairymen or butter men.

The CHAIRMAN. For the most part, have these frauds been attempted by retail sellers of butter?

Doctor CRAMPTON. Retail sellers are more apt to substitute oleomargarine wholly for butter, and sell it as butter.

The CHAIRMAN. I was referring to cases in which oleomargarine was used as an adulterant of butter.

Doctor CRAMPTON. Yes.

The CHAIRMAN. Not the cases in which oleomargarine by itself was fraudulently sold for butter. To that question you would an-

swer that the offenses have been committed mainly by the retail dealers?

Doctor CRAMPTON. Yes, sir.

The CHAIRMAN. Rather than by the farmer, or by the creamery man?

Doctor CRAMPTON. Yes, sir.

Mr. LEVER. Doctor, did I understand you a moment ago to say that the frauds had been increasing lately?

Doctor CRAMPTON. Of late years; yes, sir.

Mr. LEVER. They have been increasing of late years; and I think I understood you to say that there is a reason for that. I did not catch it, though.

Doctor CRAMPTON. The present stringent law, which offers a very large inducement to a man to color oleomargarine artificially without having paid the tax upon it, and sell it in that shape.

Mr. LEVER. Do you mean to say, then, that the law itself induces the fraud?

Doctor CRAMPTON. Well, I should say that; yes, sir. I think that is apparent to anyone.

Mr. LEVER. You think that is apparent to anyone. And that has been the experience of the department in enforcing the law?

Doctor CRAMPTON. Yes, sir.

Mr. LEVER. Let me ask you just one other question. I understand that your duty is to examine samples of oleomargarine and butter. In that examination, have you ever found any deleterious ingredients in oleomargarine which had been inspected by the Government?

Doctor CRAMPTON. I do not know that oleomargarine is inspected, except within the last few years by the Agricultural Department under the pure-meat law.

Mr. LEVER. Have you found, within late years, any deleterious ingredients in oleomargarine?

Doctor CRAMPTON. I do not know of any. If there are any, it has been since I have been active in that work.

Mr. LEVER. What can you say as to butter?

Doctor CRAMPTON. Adulterated butter has been found to a considerable extent—that is, butter containing excessive moisture. Just to what extent that has been found in butter which has been inspected, I do not know.

Mr. LEVER. What about the deleterious or harmful ingredients in butter that you have examined?

Doctor CRAMPTON. I have never found any deleterious ingredients in butter to any extent.

Mr. LEVER. And none in the government-inspected oleomargarine, either?

Doctor CRAMPTON. No. I think paraffin is the most serious ingredient that they have ever accused oleomargarine of containing, in a general way. The literature shows that paraffin has occasionally been found in oleomargarine.

The CHAIRMAN. Judging by your experience, has the color line been effective in determining whether a product is oleomargarine or butter?

Doctor CRAMPTON. That calls for an expression of opinion on my part that I would rather not give. It would not amount to anything. The commissioner can speak with regard to that.

The CHAIRMAN. I ask that question to lead up to another. As you know, of course, the present law is predicated upon the proposition that if oleomargarine is not artificially colored it will present such an appearance that no one is likely to mistake it for butter.

Doctor CRAMPTON. Yes, sir.

The CHAIRMAN. I think it is generally conceded that oleomargarine is now made without artificial coloring, but by the use of ingredients which are permitted by the internal-revenue office it is given a color which makes it difficult, if not impossible, in some cases, to distinguish it from butter. So it is proposed by some of those who are anxious to prevent the fraudulent sale of oleomargarine to change the wording of the law so as to provide that oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be deemed to be colored oleomargarine and subject to the 10-cent tax. I should like to inquire—and I realize that it is a matter of opinion, but your experience makes your opinion very valuable—whether, in your judgment, the modification of the law as I have just indicated would make it easier of enforcement?

Doctor CRAMPTON. I should think it would; yes, sir. It would cut out this technically colorless oleomargarine, which is really not colorless.

The CHAIRMAN. Would it prevent the use of any ingredient which is essential to the manufacture of oleomargarine?

Doctor CRAMPTON. No, sir; I should think not.

The CHAIRMAN. By what ingredient is oleomargarine now given some shade of yellow?

Doctor CRAMPTON. It gets some shade of yellow from the beef fat. In certain beef animals the fat is of a yellowish color, so that it might get a slight tinge of color from that. Then, it is given a tinge of color by the vegetable oils which are used.

The CHAIRMAN. Such as what?

Doctor CRAMPTON. Such as cotton-seed oil; oils which have naturally some shade of color, but which color is not foreign to the oil itself.

The CHAIRMAN. Both the beef fats and the vegetable oils are necessary ingredients of oleomargarine, are they not?

Doctor CRAMPTON. Well, no, sir. Oleomargarine can be made without vegetable oil, and it can be made of beef fat, which is practically colorless. But it being the fact that the law puts a premium upon oleomargarine which is of a shade of color, although a color which is natural to some ingredients in that oleomargarine, consequently the inducement is for the manufacturer to use the things that give it that color.

The CHAIRMAN. If the language were changed so as to prohibit any shade of yellow, whether produced by artificial coloring or by the ingredients of the product itself, would it be necessary, in order to comply with the law, for the manufacturers of oleomargarine to artificially bleach the vegetable oils or the beef fats which they use in their manufacture?

Doctor CRAMPTON. That would depend upon the rigidity with which this color provision was enforced. Of course, any fat has a slight tinge of yellow. Lard, which is perfectly colorless in appearance to the eye when it is hard, solid, will have a slight tinge of yellow when you melt it; and if such a law were passed it might be necessary

to make a color standard, or something of that sort. I am not qualified to say whether a law of that kind could be made which would be practicable, but it would appear to be practicable, and it would appear that if such a law were passed it would diminish one of the great executive or administrative difficulties in the present law—this matter of the use of color which is natural to some ingredient in the oleomargarine and which is now permitted under the present law and rulings.

The CHAIRMAN. Would you, or would you not, encounter another administrative difficulty in determining the shade of yellow?

Doctor CRAMPTON. That might be.

The CHAIRMAN. "Any shade of yellow" strikes me as being a very vague expression, because we all realize that it covers a wide range of color, from the yellow of the dandelion or the buttercup to the faint tinge of yellow which, you remark, is noticed even upon a perfectly colorless lard when it is melted. That is a wide range, and it just occurs to me that you would have nearly as much administrative difficulty in drawing the line there as you have in drawing the line under the present law.

Doctor CRAMPTON. It might be.

Mr. BURLESON. Just one minute on that point: Doctor Crampton, would it not be impossible if you used the higher grades of oleomargarine, containing beef fat and cotton-seed oil?

Doctor CRAMPTON. No; I think the higher grades contain beef fat and lard. That is my understanding of the best grades. Cotton-seed oil is not a high-grade ingredient. The higher grades of oleomargarine contain no oil, and the cheaper grades contain the larger proportion.

Mr. BURLESON. Of course the cotton-seed oil is a nutritious oil?

Doctor CRAMPTON. Yes, sir.

Mr. BURLESON. Would it not be impossible to manufacture oleomargarine containing any cotton-seed oil without giving it a shade of yellow?

Doctor CRAMPTON. It might give it this delicate shade that the chairman was just speaking of.

Mr. BURLESON. Regardless of how infinitesimally delicate it might be, a shade of yellow would be a shade of yellow?

Doctor CRAMPTON. Yes, sir.

Mr. BURLESON. Could you, by any process of bleaching, take out of cotton-seed oil the yellow color which nature has placed there?

Doctor CRAMPTON. You could take out the most of it. The oil that is sold for oleomargarine purposes has not very much color in it. Of course it has a shade of yellow in it.

Mr. BURLESON. But you say it would still have a shade of yellow?

Doctor CRAMPTON. It would still have a shade of yellow.

Mr. BURLESON. Then, to pass a law of that kind and rigidly enforce it would prohibit altogether the manufacture of oleomargarine, would it not, Doctor?

Doctor CRAMPTON. If that were technically insisted upon, yes, sir.

Mr. BURLESON. If it was technically insisted upon, it would altogether prohibit the manufacture of oleomargarine. Now, Doctor Crampton, has there been any change in the quality of oleomargarine since 1902?

Doctor CRAMPTON. I would not be able to say. I am not qualified to judge as to the value of the product or as to the relative palatability of it or the quality.

Mr. BURLESON. You spoke of the use of paraffin?

Doctor CRAMPTON. I might qualify that by saying that there are a great many grades of oleomargarine made now, just as there were then.

Mr. BURLESON. Are there any more grades of oleomargarine than there are of butter?

Doctor CRAMPTON. It depends upon what you call grades. There are a number of different qualities.

Mr. BURLESON. Different kinds of oleomargarine and different kinds of butter?

Doctor CRAMPTON. Yes, sir; different grades.

Mr. BURLESON. Doctor, you spoke of the use of paraffin. Has paraffin been used since the passage of the meat-inspection law?

Doctor CRAMPTON. Not that I know of. I only know of the presence of paraffin there (I have no personal knowledge of it) from the chemical literature as having been found. That is all.

Mr. BURLESON. But since the passage of this meat-inspection law have you any knowledge, even from the chemical literature, of the existence of paraffin in oleomargarine?

Doctor CRAMPTON. No, sir; I have not seen any recent allusion to its occurrence in oleomargarine.

Mr. LEVER. Just one minute, Mr. Chairman. I understood Doctor Crampton to say a moment ago that the great difficulty with the present law was the enforcement of it—the difficulty of enforcing it in such a way as to prevent fraud. Let me ask you this question, Doctor: If we were to pass a law here requiring colored oleomargarine to be put up in original packages of 5 pounds, 3 pounds, 2 pounds, or 1 pound, with the word “oleomargarine” imprinted in the package, then imprinted again on an outside cover, and then imprinted again on the outer wrapper, would it not be possible to enforce such a law?

Doctor CRAMPTON. I think such a law would be more readily enforceable as to the provisions for insuring its sale to the consumer under its true name. Undoubtedly it would conduce to that end.

Mr. LEVER. Of course, the same line of protection would go against the wholesale dealer, and the like of that. You believe such a law would be practicable, do you?

Doctor CRAMPTON. Oh, yes; entirely so.

Mr. LEVER. Entirely so; and it would prevent the frauds that are now being committed under the present law?

Mr. BURLESON. Especially if you reduce the tax on the colored and uncolored oleomargarine.

Mr. LEVER. Especially if you reduce or completely eliminate the tax?

Mr. BURLESON. The difference.

Mr. LEVER. The difference between the two?

Doctor CRAMPTON. I should think such a law could be enforced, and would probably simplify it in the way specified.

Mr. HAUGEN. Are you familiar with the state laws?

Doctor CRAMPTON. Some of them.

Mr. HAUGEN. Is it not a fact that the state laws provide that it shall be put up in wrappers having the word “oleomargarine” printed upon them in large letters?

Doctor CRAMPTON. I am not a lawyer. I only know of the state laws through some——

Mr. HAUGEN. You are giving your opinion now as to the enforcement of this law.

Doctor CRAMPTON. Yes, sir.

Mr. HAUGEN. I am calling your attention to the fact that the States have enacted laws which provide for that very thing.

Doctor CRAMPTON. Yes.

Mr. HAUGEN. And I will call your attention to the fact that in the 32 States which have enacted laws prohibiting the sale of yellow oleomargarine 62,000,000 pounds out of a product of 86,000,000 pounds were sold, and every pound of it was sold in violation of the law; and most of those state laws provided for this very thing. That is why I am calling your attention to it. They provide for the labeling of the article.

Mr. LEVER. Do you know whether or not this amount which you have given as sold contrary to law was sold within the State or in interstate commerce?

Doctor CRAMPTON. You see, our law does not deal with interstate commerce. That is the pure-food law. The oleomargarine law has no such limits. Anything sold in the State, sold contrary to the provisions of the internal-revenue law, is in violation of the law, whether it goes into interstate commerce or not. The interstate feature does not apply to this law.

The CHAIRMAN. Did I understand you to express the opinion that as a matter of practical administration, in your judgment, a law providing for the sale in the original package, as described by Mr. Lever, would be more easily enforced and more certainly protect the people from the fraudulent sale of oleomargarine than the law that we now have, or than the law that we now have if it were modified so as to include coloring through ingredients as well as by artificial methods?

Doctor CRAMPTON. Yes, sir; I expressed myself that way.

Mr. FLANDERS. Doctor Crampton, in the case of a mixture of cotton-seed oil and beef fat used as a lard substitute, is that substitute yellow? Does it have any shade of yellow? It is usually white, is it not?

Doctor CRAMPTON. It is white to ordinary appearances; yes, sir.

Mr. FLANDERS. It would not be a shade which you would call any shade of yellow in butter, would it?

Doctor CRAMPTON. If you melted it, it would have a slight shade of yellow.

Mr. FLANDERS. But it would not be anything that would be perceptible to the eye, would it, in its finished condition, not melted?

Doctor CRAMPTON. If the cotton-seed oil had a slight shade of yellow, and if the beef fat was yellow beef fat, it might have a slight shade of yellow.

Mr. FLANDERS. Yes; but I did not deal with that presumption, Doctor. I take the ordinary sample as you find it on the market, that to the eye appears to be white. That is not in a melted condition; and they do not use oleomargarine in a melted condition as butter, do they?

Doctor CRAMPTON. No.

Mr. FLANDERS. Then, if it were white—that combination—it would not be any shade of yellow, would it, so as to deceive the eye?

Doctor CRAMPTON. It would only have this shade of yellow that the chairman was speaking of a while ago as being a technical shade, a slight shade.

Mr. FLANDERS. That is an oleaginous substance, is it not?

Doctor CRAMPTON. Yes.

Mr. FLANDERS. Then could not oleomargarine be made with those substances without being of the shade of yellow butter to any extent?

Doctor CRAMPTON. Yes, sir. I think we would have to go back to this technical, slight shade of yellow; and to anyone who has had experience with determining whether a thing is yellow or not, it is very difficult. It is more difficult than it appears to be.

Mr. FLANDERS. That would be a question of detail, to be worked out under the law, would it not, as to what the standard might be? Now, I want to ask you this question, Doctor. You say that you have not found paraffin wax in oleomargarine; you have read it in the literature. When you get a sample of oleomargarine and examine it in your laboratory, do you examine it for paraffin wax?

Doctor CRAMPTON. No; my examination would not cover that point ordinarily; but if there was any considerable quantity it would probably appear in the examination, because the paraffin is not a saponified fat.

Mr. FLANDERS. Then, as a matter of fact, so far as you know, you may have had samples that had paraffin in them that you did not discover?

Doctor CRAMPTON. It might have been; but it is not likely.

Mr. FLANDERS. It you found oleomargarine on the market, for sale, with 10 to 12 per cent of paraffin wax in it, would you call that a healthful, wholesome, nutritious product?

Doctor CRAMPTON. No; I think paraffin has no place in a wholesome food product. It is not digestible.

Mr. BURLESON. Doctor, just one other phase of the question: What is it that affords the incentive for the violation of this law? Is it the disparity between the tax on the colored and the uncolored oleomargarine?

Doctor CRAMPTON. That is one thing—a very strong factor I should say.

Mr. BURLESON. Is that a strong factor that enters into it, and affords an incentive for the violation of the law?

Doctor CRAMPTON. I think that is very obvious. A man can make 9½ cents a pound on his product by subjecting it to a very slight manipulation, and one that is readily carried out.

Mr. PLUMLEY. Just a moment, there, if you will permit me: Would it not have the same effect if the law was off, if the purpose was to mix it and sell it as butter? Would not the temptation to make money by selling it at a higher price be just as present if there were no law?

Doctor CRAMPTON. Yes. Of course if the substance were not only sold as butter, and a fraud committed—

Mr. BURLESON. You mean if there was no tax, Judge?

Mr. PLUMLEY. If there was no law against it at all, but just simply the law of commercialism—the desire to make a heavy profit by a subterfuge?

Doctor CRAMPTON. As I understand, he means there is a great profit in selling oleomargarine as butter, and therefore there is a great

incentive there. But a man can color oleomargarine and sell it as oleomargarine, and make a profit, without violating the other provision.

Mr. PLUMLEY. Yes; that is just the point. Is not that a pretty active element in a man's nature?

Doctor CRAMPTON. I think a man who is willing to violate the law in one respect is also willing to violate it in another.

Mr. PLUMLEY. It would be hard to differentiate what caused him to be doing it now, would it not?

Doctor CRAMPTON. Oh, yes.

Mr. LEVER. Doctor, do you know whether there is any proof in your bureau of the statement that I have heard, that oleo factories sell a good deal of their output to creameries?

Doctor CRAMPTON. That would be a matter that you would have to ask the office for. I presume they would have some information along that line. I can not say how much.

Doctor LEVER. You do not know, of your own knowledge, whether that is a fact?

Doctor CRAMPTON. No, sir.

The CHAIRMAN. Do the records of the internal-revenue office show the course of this product in commerce—the parties to whom it is sold?

Doctor CRAMPTON. I think they do, to a certain extent; yes, sir.

The CHAIRMAN. So that it might be possible, you think, by examining those records, to answer Mr. Lever's question, and to determine to what extent oleomargarine is sold to creameries?

Doctor CRAMPTON. It might be.

Mr. BURLESON. Who would have that information? Would Mr. Keith have that information?

Doctor CRAMPTON. I think application should be made to the commissioner.

Mr. BURLESON. You have a new commissioner there, have you not?

Doctor CRAMPTON. Mr. Cabell; yes, sir.

Mr. BURLESON. Has he this information in hand himself?

Doctor CRAMPTON. Why, he is the person who would direct the information to be supplied by the proper person, and collated, if necessary. It might be information that would have to be gotten from the records and put together.

Mr. BURLESON. Going just one step further than Mr. Lever went a moment ago, Doctor Crampton, in his description of the preparation of oleomargarine for sale in one and two and three pound packages, wrapped as he described it: Suppose the package was sold, and a government revenue stamp put on it, and there was a prohibition against selling it except in unbroken packages; would that decrease the chances of fraud?

Doctor CRAMPTON. I think it would.

Mr. BURLESON. Would it not make it nearly impossible to perpetrate a fraud?

Doctor CRAMPTON. No; because frauds will be perpetrated under any circumstances; and similar provisions as to tobacco and liquors are violated to some extent.

Mr. LEVER. But to a very small extent as to tobacco and cigarettes and the like of that?

Doctor CRAMPTON. I do not know just how far, but I know there are such violations.

Mr. BURLISON. In response to a question by Mr. Lever as to whether or not you have examined butter with a view of discovering deleterious substances in it, you said that you had found no deleterious substances. Did you examine it for bacteria?

Doctor CRAMPTON. No, sir. We do not make bacteriological investigations.

Mr. BURLISON. The investigation you made would not disclose whether there were tubercular bacilli or typhoid bacilli in the butter?

Doctor CRAMPTON. No, sir.

Mr. BURLISON. Have you ever made an investigation of that kind, Doctor, with a view of determining the quantity or the percentage of butter that is infected with these disease germs?

Doctor CRAMPTON. No, sir. That would naturally come under a bacteriological line of work—the Marine-Hospital Service.

Mr. BEALL. Let me ask you one or two questions: I understand that the obligation rests on you, in your department, to make these chemical analyses for the purpose of determining whether any product that is submitted to you contains any quantity of oleomargarine?

Doctor CRAMPTON. Yes, sir.

Mr. BEALL. That that is the main part of your duty?

Doctor CRAMPTON. That is the main part; yes, sir.

Mr. BEALL. But that you have made a chemical analysis of oleomargarine as well as of butter?

Doctor CRAMPTON. Yes.

Mr. BEALL. What are the coloring matters that are used in coloring oleomargarine?

Doctor CRAMPTON. They use anatto for a vegetable color, mainly, and they either use some of the azo aniline dyes, or——

Mr. BEALL. I understand that the first coloring matter that you have named is a recent discovery?

Doctor CRAMPTON. No, sir; rather an old one.

Mr. BEALL. Its use is rather recent for this purpose?

Doctor CRAMPTON. No, sir; I think you misapprehended Doctor Wiley on that point. It antedates the use of the aniline colors; but they have come back to it.

Mr. BEALL. They have come back to this?

Doctor CRAMPTON. Yes.

Mr. BEALL. That is regarded as a harmless coloring?

Doctor CRAMPTON. They do so regard it, I believe, in the Agricultural Department; yes, sir.

Mr. BEALL. Was there any suspicion attached to the coal-tar coloring?

Doctor CRAMPTON. Yes; some of those coal-tar colors are open to suspicion.

Mr. BEALL. What are the coloring matters that are used in coloring butter?

Doctor CRAMPTON. They would be the same colors that are used in oleomargarine. It is necessary to have a fat-soluble substance.

Mr. BEALL. So far as the two products are concerned, the same coloring matter is used for both?

Doctor CRAMPTON. Exactly; yes, sir.

Mr. BEALL. Which one of these products was first generally artificially colored?

Doctor CRAMPTON. I think anatto was the first. Oh, you mean which of the two products—oleomargarine or butter?

Mr. BEALL. Yes; oleomargarine or butter?

Doctor CRAMPTON. That goes back of my experience.

Mr. BEALL. Is it not a fact that the records show that the oleomargarine was colored first, and that the use of coloring matter in butter was subsequent to the practice of coloring oleomargarine, and that they began to color the butter in order to make it look like the colored oleomargarine, instead of coloring the oleomargarine to make it look like butter? [Laughter.] I observe the gentlemen laugh, Mr. Chairman. I will state that that fact was developed at the hearings before these committees a few years ago, and I do not think it was controverted—that the artificial coloring was first used in oleomargarine, and then they began the use of it in butter. Do you know whether that is true or not?

Doctor CRAMPTON. No; I would not be able to state as to that. My experience with oleomargarine began about the same time that Doctor Wiley was speaking of—about 1883, or along there.

Mr. BEALL. Is the best quality of butter artificially colored?

Doctor CRAMPTON. I think it is in Washington, as a rule.

Mr. BEALL. All of it is colored in Washington, I understand. But the statement is frequently made—it was made in the hearings some years ago, and I understood the statement to be made to-day—that the highest-priced butter is not artificially colored at all. Is not that a fact?

Doctor CRAMPTON. Probably that would be true of June butter—butter that has a high color naturally.

Mr. BEALL. There is a difference in the coloring of butter according to the different seasons?

Doctor CRAMPTON. Yes, sir.

Mr. BEALL. What is the natural color of butter, say, in the winter time?

Doctor CRAMPTON. It is almost white.

Mr. BEALL. Almost white? There is not very much difference between the natural color of winter-time butter and oleomargarine, is there?

Doctor CRAMPTON. No.

Mr. BEALL. Where the animals are fed upon grass, or food of that sort, in the spring and summer the butter takes on a very decided coloring. What is renovated butter, Doctor, do you know?

Doctor CRAMPTON. Yes, sir; I have made an investigation of that product and published a paper on it some years ago in the chemical journals, describing the product. I can give the clerk——

Mr. BEALL. I wish you would briefly give us a statement as to what renovated butter is, and how it is made, and what it is made of, and how its constituents are gathered together.

Doctor CRAMPTON. Renovated butter is made from butter which has become unmerchantable, unmarketable, by separating the oil of the butter from the curd and water and salt, and treating this oil more or less as may be necessary to remove the greater part of its bad odor and rancidity, and so on, and then churning it with sweet milk or cream, and perhaps with a culture, and making it into another product and calling it butter. The renovated butter is practically the original butter with the fat subjected to some treatment and with a new curd and salt, which is supplied to it.

Mr. BEALL. They take out the old curd?

Doctor CRAMPTON. Yes; they take out the old curd.

Mr. BEALL. And put in a new one?

Doctor CRAMPTON. Yes, sir.

Mr. BEALL. Where do they get this unmerchantable butter that you speak of? Where is it usually gotten?

Doctor CRAMPTON. They buy it in small quantities, gathered up from farmers and from country stores and places.

Mr. BEALL. And peddlers that go around through the country?

Doctor CRAMPTON. I presume so; yes, sir.

Mr. BEALL. And trade tinware and such articles for ancient butter?

Doctor CRAMPTON. There is a factory here in the city of Washington, if any of the gentlemen would like to see for themselves.

Mr. BEALL. What is it that has made that butter unmerchantable?

Doctor CRAMPTON. It has become either unsightly or uncleanly or rancid, or all, perhaps.

Mr. BEALL. What makes it become rancid? A sort of a decomposition of something in it?

Doctor CRAMPTON. To a certain extent; yes, sir—decomposition of either the fats or the other constituents of the butter.

Mr. BEALL. It is gathered up from the four corners of the earth and brought together at one of these renovating establishments, and it is subjected to some kind of treatment. What is that treatment, aside from removing the curd? Any other kind of treatment?

Doctor CRAMPTON. Yes; they usually treat it by aerating it—blowing air through it. That is the commonest method of treatment. Sometimes it is treated by washing it, also.

Mr. BEALL. Are there any chemicals used?

Doctor CRAMPTON. They are said to use chemicals in some cases. The present law provides that it shall be classed as adulterated butter if such chemicals are used.

Mr. BEALL. Suppose chemicals are not used, and the old curd is taken out and new curds put in: Then what do they do with it?

Doctor CRAMPTON. Then they take it and sell it just like ordinary butter.

Mr. BEALL. Do they add coloring matter to it?

Doctor CRAMPTON. Oh, yes; very frequently.

Mr. BEALL. They pack it, and how do they stamp it?

Doctor CRAMPTON. They stamp it as renovated butter—a quarter of a cent.

Mr. BEALL. Do they not stamp it as creamery butter?

Doctor CRAMPTON. No; they are not supposed to do anything of that sort. They are all under the Internal Revenue Office, and also under the Agricultural Department.

Mr. BEALL. Do you know whether the practice at this time is different from what it was before the passage of the pure-food law?

Doctor CRAMPTON. No; I do not.

Mr. BEALL. It was a fact that some years ago the practice was to gather that stuff up and send it to Elgin, where it was renovated and sent out as creamery butter at that time; or, at least, it was sent through the butter agencies that have their headquarters at Elgin, whether the actual renovation was done there or not.

Doctor CRAMPTON. I think that was prior to the passage of the present act.

The CHAIRMAN. The present act penalizes the sale of renovated butter unless it is properly marked, as I recall it.

Doctor CRAMPTON. Yes, sir; it puts it under both the internal revenue and the Agricultural departments.

Mr. BEALL. Do you know whether there is now any government inspection of butter at Elgin or of the Elgin product?

Doctor CRAMPTON. Renovated butter?

Mr. BEALL. Yes.

Doctor CRAMPTON. I do not think our office has any regular inspection of those factories, so far as I know. I would not like to say as to that. Probably the inspection is permissible; that is, it is intermittent. The officers have the right of inspection at any time, but I do not think as a rule they are under constant inspection.

Mr. BEALL. Now, with reference to oleomargarine: From the time that the process of its manufacture begins down to the time it goes into the hands of the jobber and the wholesaler and the retailer, during all that time it is subject to government inspection, is it not?

Doctor CRAMPTON. Yes, sir.

Mr. BEALL. It goes out with a government stamp on it now, does it not?

Doctor CRAMPTON. Yes, sir.

Mr. BEALL. It is inspected and passed through the agencies of the Government.

Mr. LEVER. Doctor, is renovated butter as good as oleomargarine as a food product, in your judgment?

Doctor CRAMPTON. Renovated butter is like other butters in its chemical character. It has not been changed essentially from ordinary butter so far as its component parts are concerned. Therefore I suppose that any comparison between ordinary butter and oleomargarine would apply also to renovated butter.

Mr. LEVER. It would sell then for the same price as the high-grade butter, would it?

Doctor CRAMPTON. Of course the price is generally lower. It is a low grade of butter.

Mr. HAUGEN. It is just as good as the high-grade butter, is it, Doctor?

Doctor CRAMPTON. No, sir; I do not think so—not commercially. It sells for a lower price.

Mr. BEALL. Is it not nutritious?

Doctor CRAMPTON. Yes.

Mr. BEALL. Can you vouch for its cleanliness as well as you could for the cleanliness of oleomargarine?

Doctor CRAMPTON. No; I think not.

Mr. BEALL. Could you vouch for its healthfulness as well as you can for the healthfulness of oleomargarine?

Doctor CRAMPTON. Well, this line of investigation carries me rather too far. I am afraid I have gone very far over the line of proper replies to these questions, because in so many respects I am not qualified to answer them. I have only visited renovated-butter factories at intervals, and I have no knowledge of the product as it is made at present—within the last few years. These comparisons are difficult matters to give offhand opinions upon.

Mr. HAUGEN. Mr. Chairman, in connection with the statement made a little while ago, I want to read to you from the laws of Illinois,

which provide that oleomargarine shall not be colored to resemble butter; that all packages must be plainly branded "Oleomargarine," "Butterine," "Substitute for Butter," or "Imitation Butter;" that each sale shall be accompanied by notice to the purchaser that the substitute is imitation butter. Now, the law of the State of Illinois prohibits the sale of yellow oleo; and I find here, in 1899, 2,020 dealers selling 18,638,921 pounds. Are you still of the opinion that if these packages were properly marked and branded there would be no violation of the law?

Doctor CRAMPTON. I do not think I expressed that opinion.

The CHAIRMAN. I should like to inquire whether you mean the committee to understand that this 18,000,000 pounds of oleomargarine was sold as butter, in violation of the Illinois law?

Mr. HAUGEN. It was sold as butter, and it was sold in violation of the law, as the law absolutely prohibits the sale of oleomargarine made in semblance of butter or colored in imitation of butter. Every pound of it that was made in imitation of butter of course was sold in violation of the law; and 18,000,000 pounds of it was sold by 2,020 dealers in the State of Illinois; and so on all along the line, in 32 States of the Union.

The CHAIRMAN. What is that statement taken from? I ask so that we may know.

Mr. HAUGEN. It is taken from a synopsis of the laws of the various States. I was reading to you from the law of the State of Illinois; and here in the hearings are the reports of the number of pounds that were sold in each State. You will find it on page 602 of the hearings.

The CHAIRMAN. Of the hearings of 1900?

Mr. HAUGEN. Yes, sir. In Illinois, for instance, 2,020 dealers sold 18,638,921 pounds. In Kentucky, for instance, 217 dealers sold 1,490,577 pounds. All told, there were 62,000,000 pounds sold in these 32 States, and every pound of it was sold in violation of the law.

Mr. RUCKER. That looks like a pretty strong argument for the repeal of the law. That is the old law?

Mr. HAUGEN. That is the law of 1886.

Mr. LEVER. The reading of this statement here, Doctor, does not change your opinion that we could better enforce this law and protect the public against fraud by an original-package system?

Doctor CRAMPTON. I think it would tend that way. That is my opinion on it, my personal, individual opinion, not my official opinion.

Mr. FLANDERS. Doctor Crampton, is it not a fact that under the law the Department of Agriculture has supervision of renovated butter factories?

Doctor CRAMPTON. Yes.

Mr. FLANDERS. And has inspectors at each factory?

Doctor CRAMPTON. I do not know as to whether they maintain inspectors there all the time.

Mr. FLANDERS. But they have the right to do that?

Doctor CRAMPTON. Yes; I think they have.

Mr. FLANDERS. And you understand that they do?

Doctor CRAMPTON. I do not know as to that.

Mr. FLANDERS. Doctor, do you remember ever hearing about butter being colored by the grandmothers with carrots?

Doctor CRAMPTON. Yes; I have heard of that.

Mr. FLANDERS. As a matter of fact do you not know, as you know some of these other things—by hearsay—that in the early days the women that made butter used to color it with carrots?

Doctor CRAMPTON. I have heard such a thing, but I can hardly see how they would get it into it.

Mr. FLANDERS. Yes, but they did; and that was when we were boys. You heard Doctor Wiley testify that Mege-Mouries (I may not pronounce it right; I am not a good French scholar) produced oleomargarine. Do you know about when that was?

Doctor CRAMPTON. No; I can not give the date. It is set forth in some books of reference. It might possibly be in this book.

Mr. FLANDERS. Was it not about the time of the siege of Paris?

Doctor CRAMPTON. I think that was about the date that was given.

Mr. FLANDERS. And that was when? Along in the seventies, was it not?

Doctor CRAMPTON. Yes.

Mr. FLANDERS. I may not be right about that date. Then there was no oleomargarine manufactured prior to the seventies—1874 or 1876—was there?

Doctor CRAMPTON. No.

Mr. FLANDERS. Then if the mothers or grandmothers, when we were boys, colored butter with carrots, butter was colored prior to the manufacture of oleomargarine, was it not? I wish to put this into the record, if it is contended that butter is colored to imitate oleomargarine, to show that it was colored long before.

Now, doctor, I understood you to state, if the oleomargarine was done up in packages, marked, stamped, and so forth, as provided in the bill introduced by Mr. Lever, that you thought it would prevent violation of the law?

Doctor CRAMPTON. I said it would increase the possibility of protecting the consumer; that is, by insuring that it goes to the consumer under its true name.

Mr. FLANDERS. That would be true, would it not, so long as it remained in the original package with the wrapper still on it?

Doctor CRAMPTON. Yes; but I understood that that applied to the individual package as handed out to the consumer.

Mr. FLANDERS. But this would apply only to interstate traffic?

Doctor CRAMPTON. I think this would apply just like it does to cigars.

Mr. FLANDERS. Now, when the goods went in the original package to the hotel keeper, before he could use it on his table he would have to take the wrapper off?

Doctor CRAMPTON. Yes.

Mr. FLANDERS. And he would have a perfect right to do that, would he not?

Doctor CRAMPTON. Yes.

Mr. FLANDERS. Then if the oleomargarine was the color of butter of any shade of yellow, with the wrapper off and cut up into small pieces and served at the table, would the fact that it had been in that wrapper be any protection to the traveling, consuming public?

Doctor CRAMPTON. Probably not.

Mr. FLANDERS. That is what I think.

Doctor CRAMPTON. That is, to the person who eats the oleomargarine in the hotel.

Mr. FLANDERS. I guess that is all I want to ask.

The CHAIRMAN. I think that will be all, Doctor, if you have nothing further. We are very much obliged to you.

Mr. Jelke, a manufacturer of oleomargarine in Chicago, is present and would like to be heard at the present time.

STATEMENT OF MR. FERDINAND JELKE, JR.

Mr. JELKE. I am a member of the bar of the State of Ohio, and represent three producers of oleomargarine, the John F. Jelke Company, of Chicago, the George P. Braun Company, of Chicago, and the Ohio Butterine Company, of the city of Cincinnati, Ohio.

I want to thank your honor and gentlemen of the committee for according me an opportunity to be heard, and as the last thing that is freshest in mind is the inquiry of the gentleman from the State of Iowa, I would beg to answer his question first. I beg to inform him that the conditions which he read from the report arose under these conditions; that under a decision of the court of appeals of the State of Illinois the law to which he refers was held unconstitutional and void, and during the period during which that colored oleomargarine was sold, it was not enforced by the department of the State.

Mr. HAUGEN. How about the laws of these other States; were they unconstitutional, too?

Mr. JELKE. That is the one concerning which I have answered.

Mr. HAUGEN. I would like to know about the cases of the dealers in these other States where the laws were held constitutional.

Mr. JELKE. Yes; I will take this up with you with pleasure after I have spoken in other regards.

Mr. HAUGEN. Yes; very well.

Mr. JELKE. Now, gentlemen, I want to put the attitude of the producer of oleomargarine before this committee honestly and fairly, and I want to say that at this very stage of this hearing, we want to cut the word "fraud" out of this industry and out of the law and out of consideration, in every respect. We want to join with the producers of butter, and we not only are willing to submit to, but we invite, every reasonable regulation, package, and precaution which will make the identification of our goods sure and certain. In a number of the bills which are before this committee that thing is so definitely pointed out that there could be no possible mistake about it. You all know how in your early experiences every paper of matches you had was entirely wrapped by a stamp; every paper of tobacco and every paper of snuff. You do not open a box of cigars but what it is so put up that there is no possibility of mistaking the commodity that you are getting.

The CHAIRMAN. What would you say in reply to the question that Mr. Flanders asked as to the protection that would be afforded the patrons of the hotel to whom the butter was served, and before whom the butter was placed in small pieces?

Mr. JELKE. That is very easily provided for by the department; and in the matter of regulations these gentlemen may go as far as they like, always provided they do not do anything to make the article ridiculous or absurd.

The CHAIRMAN. Can you suggest, offhand, what regulations might be enforced that would take care of that situation?

Mr. JELKE. Yes; the charging of a small license fee, possibly; putting a notice upon the menu or bill of fare or anything of that kind. That has been resorted to in very many jurisdictions, to the enhancement and appreciation of the oleomargarine trade and business. In Chicago and Cleveland and Cincinnati and New York they put up signs—you can find them in almost any railway eating station in Ohio—and if we can agree with the gentlemen representing the dairy interests, and I think in a matter of this kind it is only fair that we try each to find out where the other is “at,” so to speak, upon what grounds do you gentlemen want a tax upon oleomargarine; is it for the purpose of injuring that industry and enhancing your own? You do not want that? May I ask you, Mr. Flanders, you do not want that, do you?

Mr. FLANDERS. Shall I answer the question, Mr. Chairman?

The CHAIRMAN. Just as you like.

Mr. FLANDERS. No, sir; not for that purpose.

Mr. JELKE. You do not want it for that purpose?

Mr. FLANDERS. May I extend that answer?

Mr. JELKE. Yes.

Mr. FLANDERS. We want that line of demarcation so clear from start to finish that he who runs may read, and nobody shall eat what he does not want; whether the oleomargarine is better or the butter is better, we do not care.

Mr. JELKE. And if you are given that chance, do you not agree with me that it is logical and fair that the tax should be taken off of oleomargarine?

Mr. FLANDERS. My answer to that question is that you are now dealing with a means toward an end; and I am not quite sure, Mr. Chairman, that Mr. Jelke is right about his means. That will be a matter for consideration, and we would want to consult about that matter. We want the means to be suited to the end.

Mr. JELKE. If we provide you with a means of absolute identification from manufacture to consumption will it not then be logical and fair to take all the tax off the commodity?

Mr. FLANDERS. It might be, or it might not; and it might depend upon whether that means satisfied us as it satisfied you. You might be more easily satisfied than we are.

Mr. JELKE. It is not a question of satisfying me or satisfying you. It is a question of satisfying this committee that the means provided is efficacious and sure and will satisfy the Congress of the United States.

The CHAIRMAN. Now, Mr. Jelke, I understand that you have no set statement that you wish to make.

Mr. JELKE. None whatever.

The CHAIRMAN. You will not be interrupted by a question, therefore?

Mr. JELKE. No, sir.

The CHAIRMAN. The committee has considered these matters, and we desire to find out just the objection to these bills from the standpoint you represent.

Mr. JELKE. Yes.

The CHAIRMAN. As well as the arguments in favor of them from the standpoint of the other gentlemen. Now, my understanding is that

the bill which particularly represents the sentiment of the dairy interests contains this provision:

For the purpose of this act oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be classed and taxed as colored oleomargarine.

Mr. FLANDERS. Yes.

Mr. LEVER. What bill is that?

The CHAIRMAN. That is the McHenry bill. I am right, am I not, in saying that that represents your contention?

Mr. FLANDERS. Yes.

The CHAIRMAN. Will you state to the committee what objection you have to the wording that I have just read?

Mr. JELKE. There is no objection to that, excepting in this, that it maintains that old differential in price, which is illogical, and, under the holding of the Supreme Court in the McRae case, is unlawful if it is kept in there and put in there for the purpose of preventing fraud or for discriminating between different kinds of oleomargarine.

The CHAIRMAN. Did you use the word you intended to when you said "the difference in price?"

Mr. JELKE. The difference in tax, I should have said, between 10 cents and a quarter of a cent a pound.

The CHAIRMAN. Yes. This has no reference to the difference in tax, except indirectly.

Mr. JELKE. No.

The CHAIRMAN. The present law, as of course you know, refers to colored oleomargarine only, and that which is artificially colored.

Mr. JELKE. Yes.

The CHAIRMAN. While the new proposition is to regard as colored oleomargarine that which is of any shade of yellow, regardless of whether that shade is produced by the ingredients of the product or artificial color.

Mr. JELKE. Yes.

The CHAIRMAN. And I desired to know your objections, if you had any, to that.

Mr. JELKE. I can only say that the supreme court of the State of New York has said that that kind of a law can not be passed.

The CHAIRMAN. On what ground?

Mr. JELKE. On the ground that it is a prohibition against doing a perfectly natural and lawful thing, making a compound of necessary and essential ingredients. It is only when the addition of artificial coloration is put in, and it comes within the police power of the State, which the Federal Government never had, that that matter can be considered.

Mr. BURLESON. Do you believe you could manufacture an oleomargarine without any shade of yellow?

Mr. JELKE. No.

Mr. HAUGEN. How about the law of Pennsylvania?

Mr. JELKE. The law of Pennsylvania is one of the most drastic and unfair laws upon the statute books of this country, but, notwithstanding that, the people of Pennsylvania have put up such a demand for oleomargarine that it is one of the greatest markets in the country.

Mr. HAUGEN. Yes, but the courts have sustained the law?

Mr. JELKE. I believe they have.

Mr. HAUGEN. The supreme court has sustained the law.

Mr. JELKE. I am not familiar with the exact wording of the law of Pennsylvania.

The CHAIRMAN. The New York law has never come to the Supreme Court of the United States.

Mr. JELKE. No; it was under a state law and under a prosecution by the dairy and food department of the State.

Mr. FLANDERS. May I ask the gentleman a question?

Mr. HAUGEN. I wish to say, Mr. Chairman, that I have here a number of cases prosecuted in Pennsylvania.

Mr. JELKE. Yes.

Mr. HAUGEN. There were a number of them, and the fines amounted to over \$486,000.

Mr. JELKE. Yes; it has been a pretty good thing for the State of Pennsylvania.

Mr. HAUGEN. And the law was sustained by the supreme court.

Mr. FLANDERS. I was a little surprised by Mr. Jelke's statement, because every one of those cases goes over my desk. I want to ask him what case he referred to in the last twelve months?

Mr. JELKE. It is in the hearings. I will get it and give it to you in the morning.

Mr. FLANDERS. I would say to the chairman that it would seem to be a matter of information, and while I can not answer this until after we have adjourned, my opinion is that Mr. Jelke is mistaken.

The CHAIRMAN. If the supreme court of New York has rendered that sort of an opinion, it must be a matter of record.

Mr. JELKE. I can refer to it.

Mr. FLANDERS. My opinion is, as I say, that Mr. Jelke is mistaken. Then I would like to go further and ask him this question: Would you be satisfied, Mr. Jelke, with this kind of a law, providing that oleomargarine was taxed a nominal sum and if it had attached to it the provision also that no oleomargarine should be manufactured in imitation or semblance of butter in any shade of yellow—absolutely prohibiting that class of oleomargarine?

Mr. JELKE. No; we would not.

Mr. FLANDERS. And now——

Mr. JELKE. Wait a moment; you gave me your reasons, and now may I give you mine?

Mr. FLANDERS. Yes.

Mr. JELKE. Putting color in oleomargarine is not for the purpose of making it look like butter. The race taste, developed by race experience, demanding and asking that which a man puts upon his bread to be of a light shade of yellow, has been of hundreds of years' growth, and our product and our commodity is to meet that taste and that demand. Palatability depends upon the eye, upon the smell, as well as the glands of the mouth, and we are in the business of furnishing a good and wholesome food product, and it is as essential to its quality and to its wholesomeness that it shall please the eye as that it shall please the taste, and that is why we want to color it; and you have got to remember, as was said in the hearing before this committee some years ago, that oleomargarine is the butter of the poor, and it is not fair to stamp the poor man with the badge of poverty and to say because he can not buy the butter, the price of which is fixed on the Elgin Board of Trade or by the Board of Trade in Philadelphia, that he shall use a white substance upon his bread,

which is offensive to his eye and his nose, and is not palatable to him and his children. That is why we want to color it. We want to color it for the very reason that your grandmother put carrots in butter.

Mr. FLANDERS. May I ask him one more question?

The CHAIRMAN. Yes.

Mr. FLANDERS. Are you not selling oleomargarine in the State of New York? I will re-form that question. I do not know just the relation you may sustain to the firm I have referred to.

Mr. JELKE. Yes.

Mr. FLANDERS. But is it not true that John F. Jelke & Co., of the city of Chicago, are selling oleomargarine in the State of New York as white oleomargarine, with no coloring in it?

Mr. JOHN F. JELKE. I believe that is so; a very considerable quantity.

Mr. FLANDERS. And all the oleomargarine you are selling there—you need not answer this question if it has a tendency to incriminate you—

Mr. BURLESON. That is all right.

Mr. FLANDERS (continuing). Is uncolored oleomargarine?

Mr. JOHN F. JELKE. All that we are selling there is uncolored oleomargarine.

Mr. HAUGEN. You were speaking of oleomargarine as the poor man's butter?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. Do you consider the quarter of a cent a pound tax as oppressive?

Mr. JELKE. No; but that is upon white oleomargarine, which is not pleasing to the poor man. He wants the same butter that looks to him and his children—

Mr. RUCKER. He wants oleomargarine that has been doctored with carrots or something like that?

Mr. JELKE. Sure; just as your grandmother and her children wanted butter that had been doctored with carrots.

Mr. HAUGEN. If they prefer the coloring, what is to prevent them from buying the color and putting it in themselves?

Mr. JELKE. There is nothing to prevent them, and that is largely practiced to-day, and that is one thing that has developed the sale of white oleomargarine; but it is not done skillfully, and it is not done scientifically, and it is not fair to the Government.

Mr. HAUGEN. The dealers in our part of the country furnish the coloring matter, together with the oleomargarine, as it is sold.

Mr. JELKE. Yes.

Mr. HAUGEN. And it is an easy matter to mix it, as I understand?

Mr. JELKE. Yes; and it is done.

Mr. HAUGEN. But the tax of 10 cents protects the consumer against being imposed upon, against being deceived by being sold something which is called what it is not, against being sold oleomargarine as butter itself?

Mr. JELKE. Yes; I know; but, Mr. Haugen, then you are availing yourself of the taxing power of the Government to prevent a fraud.

Mr. HAUGEN. Exactly.

Mr. JELKE. Exactly; and the Supreme Court has said that you have no power to do that. The Supreme Court said that in the McRea

case. The Grout bill was sustained with three justices dissenting. We are bound to infer that the Congress of the United States was telling the truth when they said they wanted this for revenue and not for the prevention of fraud, because if the Congress of the United States said it was to prevent fraud, it would be unconstitutional; and they proceeded to pass a law on the theory that it was for revenue, which immediately cut down the revenue. I want to say that that kind of an attitude between the two departments of this great Government is what brings both the lawmaking and the law-interpreting power into disrepute. It is a shame that a law should be administered by the executive department of this Government which could only be sustained by the Supreme Court on the theory that, notwithstanding how it may work or what we may think, we are bound by what they say, and when the principal Members of Congress say that the object declared in the caption and on the face of the bill is not the reason for its passage.

Mr. HAUGEN. In view of the wholesale fraud that is going on, for instance in the State of Pennsylvania, 717 dealers selling 11,453,000 of yellow oleomargarine where the law absolutely prohibits the manufacture and sale of oleomargarine in the semblance of butter, do you not believe that Congress would be justified in resorting to the taxing power if it was found to be the only possible way of suppressing the fraud?

Mr. JELKE. I do not believe that ever a wrong is cured by another; I do not believe a wrong is ever cured by a falsehood, by an individual or by the Government. And that brings me to answer a question that you asked this morning. You said practically what you have just now said, that at that time it was the only way they could get at it. Since then there has developed this great Bureau of Animal Industry over there, with its great force of experts, and it is dealing with just this question with regard to all other food products; and now you have an instrumentality, a lawful instrumentality, one that is within the power of the Government, to handle this proposition without a subterfuge and without beating around the bush or dealing with a doctrine that is inapplicable.

Mr. HAUGEN. We had the same bureau at that time.

Mr. JELKE. It was not working; it was not working then.

Mr. HAUGEN. Yes; it was presided over by very excellent men.

Mr. BURLESON. The pure-food law had not been passed.

Mr. HAUGEN. You said the Bureau of Animal Industry?

Mr. JELKE. This industry is now being supervised under what is known as the meat bill.

Mr. HAUGEN. That work was under Doctor Wiley, the chemist. He presided over the bureau at that time.

Mr. JELKE. Yes; I know; but you did not have the meat-inspection law at that time.

Mr. LEVER. Is it not a fact that butter is about the only great meat food product that you know of that is not under the meat-inspection law now?

Mr. JELKE. It is the only one that I know. That is what we would be glad to say to these gentlemen, come and join with us, come and put your commodity under this same bureau.

The CHAIRMAN. Mr. Jelke—

Mr. JELKE. Yes, sir.

The CHAIRMAN. The complaint is made by the dairy interests that under cover of this word "artificial," in the present law, manufacturers of oleomargarine have been able, by the use of certain ingredients which can not be regarded as artificial coloring matter, to produce a product which does so closely resemble butter as to be easily mistaken for it. There were samples of oleomargarine classed by the internal revenue office as uncolored, brought before this committee last year, which bore out that statement?

Mr. JELKE. Yes.

The CHAIRMAN. I should like to inquire whether that is true generally, whether the major part of the product of the average oleomargarine factory now is of such a shade of yellow as to be easily mistaken for butter?

Mr. JELKE. No; it is not.

Mr. BURLESON. I expect your brother could answer that better than you could, Mr. Jelke.

The CHAIRMAN. Have you anything you want to say?

Mr. JOHN F. JELKE. I could answer that question as to the oleomargarine which is sold under a quarter of a cent tax. The incentive to produce the colored, which is worth $9\frac{1}{2}$ cents a pound more, has encouraged the manufacturers to use a yellow shade of cotton-seed oil, corn oil, and soy-bean oil, or mustard-seed oil, or some such oil as those, in order to produce a yellow color, and to mix therewith some June butter; that is, bought in June and has the natural June shade, and together they mix and make a yellow-tinted product that is as easily sold for butter as the 10-cent tax goods, on which the manufacturer is supposed to pay 10 cents a pound tax. Those are facts. The oils so used are of an inferior quality to the refined oils of a better class that produce a fine, sweet-flavored oleomargarine. The butter dealers and their counsel have been very wisely advised, and they have learned that it is impossible to produce a high-grade oleomargarine by the use of yellow-tinted oils of any character except in a very short space of the year. The natural color of oleomargarine, as the butter people know, and I will leave it to any of them here, of a good quality, is white.

The CHAIRMAN. It has already appeared to-day that the manufacture of oleomargarine has increased largely in the last few years. Has that increase been due to the system you have just outlined, of introducing yellow-tinted oil so as to meet the requirements of the popular taste, or has it been due to the fact that you have been pushing your uncolored product, so that the people have been induced to buy it, regardless of its color?

Mr. JOHN F. JELKE. For both reasons. In the first place, in various States they prohibit the sale of yellow oleomargarine, and the dealer can also sell, under his \$6 tax, uncolored oleomargarine. They claim that this yellow product complies with the law, and therefore the sale has been developed. And, again, the high prices for butter do encourage a great many consumers to test this detested oleomargarine; and, speaking for ourselves, I would say that we are selling more oleomargarine identified to the consumer for what it is, in a white state, than we ever expected to sell in 1902. But the consumers, in the majority of cases, accept with the sale a capsule containing this color, which they prefer to use in their own homes, and they use it for a while, and finally they become satisfied that it

adds nothing to the taste, and they continue to use it white. But the sale of yellow tinted oleomargarine, without identification, without a printed wrapper informing the purchaser that it is oleomargarine, proceeds, and that has been developed, and those goods have been sold as and for butter.

The CHAIRMAN. To what extent, in your judgment, would a changing of the law such as I have indicated, by prohibiting any shade of yellow regardless of the manner in which it is produced, interfere with the oleomargarine business?

Mr. JOHN F. JELKE. It would interfere very considerably. Eventually the public would become accustomed to taking it white, but that is a long road to travel, and I have been in the oleomargarine business all my life, and I do not expect to see the time when they ever will be satisfied, in any great measure, with the white product, when it is a badge of poverty, and while Mrs. John Jones has white oleomargarine on her table and Johnny Jones takes it on his bread to school, and Mrs. Fitzhugh Smith has yellow butter on her table and her boy brings his bread to school spread with butter. There is a certain false pride, you might call it, in nearly all of us, which makes us unwilling to appear less well off than our neighbor.

The CHAIRMAN. I am very much obliged to you. I did not wish to interrupt you, Mr. Jelke, but I knew that your brother was engaged in the manufacture of oleomargarine.

Mr. JELKE. It is perfectly agreeable to us, because the only thing we desire is a perfectly fair and frank statement of the situation.

The CHAIRMAN. The committee will have to adjourn now, Mr. Jelke, and we will have to ask you to postpone any further statement you may wish to make until a future day. According to the order of the committee, we are to hear from the butter people to-morrow.

(After further informal discussion, the committee adjourned until to-morrow, Thursday, April 21, 1910, at 10.40 o'clock a. m.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Thursday, April 21, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman), presiding.

STATEMENT OF MR. GEORGE L. FLANDERS, ASSISTANT COMMISSIONER OF AGRICULTURE, ALBANY, N. Y.

The CHAIRMAN. In accordance with the order heretofore made, it is the understanding that to-day will be given to hearing the representatives of the dairy interests, and I will ask Mr. Flanders, who is to conduct the hearing on behalf of that interest, to make such statement to the committee as he desires, and to introduce any other witnesses that he would like to have heard. Mr. Flanders, will you give to the reporter your name and whatever official title you may have, and also your connection with associations of any kind, so that the committee may know whom you represent?

Mr. FLANDERS. My name is George L. Flanders; my residence is Albany, N. Y. For twenty-six years I have been assistant com-

missioner of agriculture of the State of New York, and at the present time am president of the National Dairy Union, and also president of the Association of National State Dairy and Food Departments.

Mr. Chairman and gentlemen of the committee, in opening this morning I shall be very brief, as there are others here who will give you information in refutation of some of the views presented yesterday. I will state, however, at the start that, so far as I am concerned, and so far as those whom I represent are concerned, I have no quarrel with oleomargarine as oleomargarine. I have no more fault to find with oleomargarine, and do not fear it any more than I do the red Indian when he does not have his war paint on; but when the war paint goes on he assumes a different color, turns from his natural tint, and it is then that I fear him, and the same is the situation relative to oleomargarine. Oleomargarine was born, or brought into existence, with a right motive and a right intent by the Frenchman who produced it. But when it crossed the waters to this land of ingenuity that ingenuity, which is born of greed, saw immediately a method by which it could be turned to a use which we are quite apt to make in this business, which is expressed in the words of one of the judges of the court of last resort in our State when he said "Ingenuity keeps pace with greed."

After it had been manufactured in this country for some years, it began to mask in the form of butter. It was brought out yesterday by the other side that they churned it in milk, in cream, and in butter—mixed it. They made it look like, smell like, and taste like butter. Now, having said this, I do not wish to affirm for one moment that the man who manufactures oleomargarine and sells it in the first instance, and the man who sells it to the middleman, sells it for other than just what it is. He is willing to mark, brand, and dispense it in every respect for identity. But the difficulty in the situation, the crucial proposition, is that he insists, and ever has insisted all through these years of manufacture, on making it look particularly like butter, so, in the last instance, the man who consumes may be deceived into taking it into his system, thinking he is taking butter. There is the crux of this proposition.

It is a fundamental doctrine, I believe—generally understood, at least, by scientific men—that if you know what a people eat you can tell what they are. What a man puts into his stomach determines what he will be physically and mentally; and the fault I find with the people who feel that, by virtue of their trade secret, or by virtue of a secret knowledge they have peculiar to a product they manufacture and put upon the market, is that they say, "You must not ask us for this secret, nor must you in any way direct its manufacture. This is a money matter with me." But, at the same time, they are asking the consuming public to become so confiding that they will take in, without asking any questions, material that should be nourishing, without a right to know what is in it, or a right of choice. There is the situation that we are confronting. So, as I said to you in the opening, we are not against oleomargarine as oleomargarine when it presents itself in such form as not to deceive anybody. But the deceptive feature is what we are against. You will notice that yesterday, when I presented the question to the gentleman who had been catechising me and said he wanted to meet us on a common and fair ground, a compromise, I said, "Are you willing that if this tax

be lowered and made a general tax on oleomargarine, that the color shall be stricken out?" He said "No." I was then and there impressed with the doctrine that it was another case of the lion and the lamb shall lie down together, but the lamb must lose its identity.

Mr. JELKE. Would you be willing that all artificial coloration should be stricken out of butter if it went out of oleomargarine?

Mr. FLANDERS. No, sir.

Mr. BEALL. Why not?

Mr. FLANDERS. I will tell you why. When the cow feeds on nature's succulent food, the color of her product is rich yellow. Nature made it that way. Man began along the line of wanting to make money, seeking to have the cow give milk at a time of year which was unnatural, when there was no succulent food. Man went to work to produce a condition of things that the cow would drop her calf at a time of the year when she would not naturally do so, then he gathers up this succulent food and produces an unnatural product. So, at that time of the year, we have a butter that has an unnatural color. As the gentleman said here yesterday, butter in winter has the unnatural color of white. It has an unnatural color produced by an unnatural condition imposed on the cow by man, and the producers of butter have sought to make a nutritious product.

Mr. BEALL. How many months in the year is there the rich deep yellow color you speak of?

Mr. FLANDERS. From June, during all the time of succulent food.

Mr. BEALL. June, July, and August—three months?

Mr. FLANDERS. It will depend largely upon what section of the country you are in.

Mr. BEALL. In your section of the country?

Mr. FLANDERS. In our section of the country, eight months, I think.

Mr. BEALL. You get green food for eight months?

Mr. FLANDERS. I would like to say to the committee, if you ask me that question, figuring immediately, I could not tell you off-hand just when the grass commences to be succulent enough for the cow to get nourishment enough.

Mr. BEALL. When does the grass die in New York?

Mr. FLANDERS. I would not want to attempt to answer that.

Mr. BEALL. You know?

Mr. FLANDERS. No; I do not know.

Mr. BEALL. How long have you lived in New York?

Mr. FLANDERS. I have lived in New York for fifty years.

Mr. BEALL. When do you usually have frost that kills your green grass; about what time?

Mr. FLANDERS. I will not undertake to fix a date. I will say to you, at the time of the year when nature provides the succulent food—

Mr. BEALL. That, you say, begins in June?

Mr. FLANDERS. May, and runs into November, I should judge.

Mr. BEALL. May, June, July, August, September, and October; there are six months.

Mr. FLANDERS. Maybe it is six months, maybe eight.

Mr. BEALL. If they have succulent food for six months, they have the other six months when they do not have it. Why do you call the

yellow color for the six succulent months the natural color, and the white color for the other six months the unnatural color?

Mr. FLANDERS. I have not said any such thing. The gentleman himself has assumed; you have counted up six months and assumed I said there were no more. I said there were at least that.

Mr. BEALL. Can you count any more than that?

Mr. FLANDERS. I think the cows are eating grass in New York to-day, and this is April; and they are plowing.

Mr. BEALL. Is the butter yellow in New York State to-day?

Mr. FLANDERS. I have not seen any fresh-made butter this spring, but if the cow is eating the food I speak of, I will answer that the cream will be yellow; not as yellow as in June, but yellow, and you will get yellow butter.

Mr. BEALL. Are the creameries in New York putting any coloring matter in the butter to-day?

Mr. FLANDERS. I can not answer that. But for the purpose of answering the gentleman's question I shall assume they are, and say yes. I will not say all the butter, but you asked me if they are putting any in, and I will answer by saying yes. I want to finish that idea. It is our theory that it would be perfectly competent and proper that a law should be passed compelling the butter men to color their butter that was made in the way I have described and make it yellow for the sole purpose of making a line of demarcation, so the consumer will not be deceived, and then not allowing the oleo fellow to color his butter and bring it within that line of demarcation, so that nobody shall be deceived.

Mr. JELKE. Would you be willing that the rule should be turned around?

Mr. FLANDERS. No, sir; and the answer is because you can not turn it around. You can not take the color out of the June butter in summer. You are asking for an impossibility. I think I am understood fairly in this proposition. I might go back to the question the gentleman just asked me and say I am inclined to think the question is a little characteristic of some of the things our oleo friends want. They ask of us at times impossibilities. Mr. Jelke, of course, knows that you can not turn the rule around, because it would be a physical impossibility to do it. But, nevertheless, Mr. Jelke, I will say this to you, if it were a possibility, and it were necessary in order to maintain the line of demarcation as we ask for it, and you would agree to put your oleo on the market all the time yellow, and we could take the yellow color out, I would agree to it in a moment. And I will say another thing, if butter made from the cream of the cow was, by virtue of the nature of the substances that the cow ate, green, I venture the assertion that every pound of oleo made in the United States would be green within forty-eight hours. At this point the question is not broad. It simmers right down in the last analysis, to one proposition and one only: Shall the people of this country—do not mistake the idea that we are representing the dairymen only; we are representing the consuming public. The State of New York, in which I reside, has been spending money for a quarter of a century to stop this fraud, and this has been the burden of their lay the entire time, and Mr. Jelke referred yesterday to a case in the State of New York, in the court of last resort, and if he referred to the Arnsburg case the question was the question of color.

Mr. JELKE. The Bryan case.

Mr. FLANDERS. I will look at that later. I will speak again this afternoon, and if you will give me the reference, I would like to see it. We are contending only for that one point, and so far as I am concerned, and so far as those are concerned whom I represent—if I understand it correctly—we do not care very much how you reach that end, if you successfully reach it.

The CHAIRMAN. May I make a remark and ask a question or two?

Mr. FLANDERS. Yes, sir.

The CHAIRMAN. I do not think the oleomargarine people deny for a moment their design and intention to color oleomargarine to make it look and smell and taste just as much like butter as they can. It is intended as a substitute for butter, and it could not carry out that intention unless it did look and taste and smell like butter, to a very large degree, to a degree just as nearly approaching perfection as possible. The oleomargarine people insist that they do not wish to have oleomargarine fraudulently sold for butter. There is not a man on this committee who desires to have that done; there is not a man who is not more than willing to help to frame any legislation that may prevent that. But, on the other hand, I think that no member of this committee desires to destroy an American industry which is engaged in producing a food product that is regarded, even by its competitors, as wholesome and nutritious.

The dairy associations wrote the law we have on the books now. Every line in it had their approval, and they told us then that if we would put that law upon the statute books, the remedy would be found. It appears from what you say and what others say that they were mistaken then. The law which they said would cure the evil failed to cure it. Now you come and ask to be allowed to write another law, or to write an amendment into this law, and you are just as certain that the law you propose now will reach the difficulty as you were eight years ago that the law you proposed then would reach the difficulty. It has been demonstrated, it seems by the evidence, that the color line has not proved effective as a means of distinguishing oleomargarine from butter. Are you sure now, just as sure as you were in 1902, that you are on the right track? Has the experience of the last eight years shaken your confidence at all in the proposition that the color line is a sufficient test of these two products, or has it not occurred to you, possibly, that there might be legislation framed along some other lines that would be more effective?

We are just as anxious as you can be to have legislation put upon the statute books that will absolutely prevent the fraudulent sale of oleomargarine; that would make it impossible for anyone who desires to buy butter to be fooled into purchasing something that is not butter. We are anxious to go as far as you are and provide, if we possibly can, that the patron of no hotel shall unwittingly consume oleomargarine with the thought that he is eating butter. But the experience of the last eight years with the color line has shaken the confidence of some of us, and we would like to have you address yourself particularly to the kind of a law you think we ought to write, and give us your reasons for believing that it would be effective.

Mr. HAUGEN. I want to correct the statement of the chairman that this law here was written by the dairy people. That is not a fact.

The CHAIRMAN. It had the approval of the dairy people.

Mr. HAUGEN. That law was a compromise measure, and at the very last stage a compromise was effected by inserting the word "yellow," so that it read, "made in imitation of yellow butter." I think we should have the record straight, and I think I know something about that legislation. I went through all of it, and I remember the compromise which was made at the very last, and it did not meet the approval of all the friends of the bill.

Mr. BURLISON. I do not think you can say that.

Mr. HAUGEN. The record will bear me out on that question.

Mr. BURLISON. I think it is not fair to say it did not meet the approval of the dairy people, because the dairy people did approve the law.

Mr. HAUGEN. It was the best they could get, and I think we were very fortunate in getting what we did, with the strenuous opposition we met.

The CHAIRMAN. I was stating my proposition in a general way.

Mr. HAUGEN. I know the chairman wants to make a fair statement.

The CHAIRMAN. I thought it was fair to say it met with the approval of the dairy people at the time. Is not that your understanding, Mr. Flanders?

Mr. FLANDERS. Yes; it met with their approval reluctantly. I was in that conference, and know all about it, and I will tell the committee with pleasure just what happened. When the bill was first drawn for a 10-cent tax, to be perfectly frank, so that we will not misunderstand each other, I opposed the 10-cent tax, and I opposed it consistently for a year, and I took the abuse of a western paper for doing it, because I wanted legislation along another line, and I have indicated the line to-day to you. I wanted the line of demarcation kept clean and clear. But there were others; they were in the majority and they prevailed. When we drew a bill that covered the ground, where I thought defects were I fell in line with them, and in that bill appeared these words, and there is what the gentleman from Iowa has reference to, I think: "Oleomargarine shall be taxed 10 cents per pound." Put in a few asterisks, if you are running a typewriter, and leave out a little, and then say: "However, oleomargarine not manufactured in imitation or semblance of butter of any shade of yellow, one-quarter of a cent a pound." In the committee room on the Senate side Mr. Knight and Senator Foraker and the Senator from Wisconsin and I had a conference, and an objection was raised to that bill, and we did not know whether we would get it through the Senate or not. One man said, "I shall not support that bill unless you change these words." He said the words providing that "oleomargarine not manufactured in imitation or semblance of butter of any shade of yellow" should be taken out, and there should be substituted the word "oleomargarine not containing artificial coloration." Those are the words there now, or words to that effect.

Now the question arises, was that bill satisfactory to the dairy interests? It was satisfactory in this way—it was the best we could get. We did not quite like the proposition, but at that time there was no method of making a yellow oleomargarine except by adding artificial coloration, and I know I said, and some others did in talking it over, that the gentlemen who manufacture that commodity were gentlemen of ingenuity, that they were gentlemen of means, and that

they would find some means before they got through of producing an oleomargarine that would be yellow without artificial coloration, but that we had better take our chances on this bill in this way, and see whether we would have to meet that issue. And just as sure as we prophesied, just so sure it came true. They produced oleomargarine and put it on the market, and there is some of it sold on the markets of Philadelphia with a tax of a quarter of a cent a pound, and the chemist can not find any artificial coloration there. Why? They say it is the natural ingredients. And there is another phenomenal proposition, as I understand it. Our oleomargarine friends, who would not cheat a man out of a dollar or a cent—their books would show squarely what was due him, and they would pay it on the day—but they will make this substance, and they will tell you this artificial product has natural ingredients in it to color it. To my mind it is a phenomenal proposition that an artificial product can have natural ingredients, and particularly in view of the fact that in the Patent Office here in Washington there are 22 different patents for making oleomargarine, no two of which are alike. Some of them contain liquor, and one of them has slippery elm bark as a constituent, and then they talk about this commodity, not a fixed commodity, not a staple commodity, a commodity as to which, when any chemist takes it in his hands to analyze, he never knows what he has, except that it is called oleomargarine, because it is an oleoaginous substance not made from milk or cream of the same.

Mr. CURRIER. You made the statement a few minutes ago, if I understood you correctly, that you opposed the 10-cent tax on oleomargarine?

Mr. FLANDERS. Yes, sir.

Mr. CURRIER. Did you so oppose it in any hearings on the Grout bill?

Mr. FLANDERS. No, sir.

Mr. CURRIER. You testified before those committees, did you not?

Mr. FLANDERS. Yes, sir.

Mr. CURRIER. Why did you not make your views known then?

Mr. FLANDERS. I will tell the committee, if they desire, just the situation. I opposed the 10-cent tax on colored oleomargarine for the sole reason that I was afraid that by taxing it it would be considered as recognizing it as a legitimate article of commerce. We had just had the Plumley decision handed down by the Supreme Court, and that decision held that the Massachusetts law was constitutional as a state law under the police power, because it prohibited counterfeiting. That was the essence of that decision, but it was barely a majority decision, five to four, and I said "If the personnel of this court changes, a man of their views may come on the bench, and they may reverse that decision, if a case goes up again, and if the coordinate branch of the Government, the legislative branch, in the meantime picks out a particular commodity and legalizes it by direct taxation, then the oleomargarine people can say to the court 'It does not lie within the province of the judiciary to say that a commodity which the legislative body has recognized as a legitimate commodity is a counterfeit or a fraud,' and they are afraid to do it; and I said, 'I will never stand for it in the world until you pass a law that when the goods come into the State, they shall become subject to the laws of the State to the same extent and in the same manner as if they had been manufactured in the State.'"

Mr. RUCKER. As I caught your answer, you opposed the tax when the Grout bill was being considered because you thought the imposition of the tax would legalize it as a commercial article?

Mr. FLANDERS. Yes, sir.

Mr. RUCKER. Do you still hold to those views?

Mr. FLANDERS. Yes; I do.

Mr. RUCKER. Then do you not think a tax of one-quarter of 1 cent would legalize it just as much as a tax of 10 cents?

Mr. FLANDERS. Mr. Chairman, the gentleman has not caught the idea. I will try to make it clear. Prior to 1902—by the law of 1886—oleomargarine as a whole was taxed 2 cents a pound. Oleomargarine as a whole was considered a legitimate article of commerce. But colored oleomargarine had not been specifically picked out and specifically taxed, and the courts had held in the Plumley case, practically, that the colored oleomargarine, so it imitated butter, was a counterfeit and fraud, and I did not want to relieve that commodity of that designation. After the people who had this bill in charge agreed that they would put into the measure what we from New York desired, namely, that the goods should become subject to the laws of the State when they came in, then we turned in to support the measure, and if you will look up the history you will find that the Grout bill was amended by adding section 1, and therein, in my judgment, lies the iniquity of the so-called Burleson bill—it repeals that section. It lets down the bars, and again we may have the question to litigate whether this taxed commodity is a legitimate article of commerce or whether it is not. I have occupied more time in opening than I intended to, Mr. Chairman.

Mr. BURLESON. I would like to ask you one or two questions for the purpose of ascertaining exactly your viewpoint. As I understand you, you say you have no war to make on oleomargarine?

Mr. FLANDERS. As such.

Mr. BURLESON. That you are willing to admit it is a wholesome, nutritious food product, but that you want to prevent fraud in the sale of oleomargarine as butter?

Mr. FLANDERS. To answer that perfectly fairly, so as there will be no misunderstanding, I do not quite agree with your proposition. I will say that I will admit that oleomargarine, some of it, is wholesome and nutritious. I do not admit that it is as wholesome or as nutritious as butter. I also assert that there is some oleomargarine put on the market that is absolutely unwholesome.

Mr. BURLESON. I was not asking you to pass on the comparative merits of butter and oleomargarine, from the standpoint of your taste, because some men may prefer corn whisky, some may prefer Bourbon, and some men may prefer rye, but it is all whisky, and will answer, probably, the same purpose. On that point you say some of it is unwholesome?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. Is it not subject to inspection?

Mr. FLANDERS. Yes.

Mr. BURLESON. By the federal officials?

Mr. FLANDERS. I think so.

Mr. BURLESON. You think so?

Mr. FLANDERS. Yes.

Mr. BURLESON. Are you in doubt about that?

Mr. FLANDERS. No, sir; I am not, but I do not want to say positively just what their functions are; that is my impression.

Mr. BURLESON. Is it not a fact that there is a rigid inspection law?

Mr. FLANDERS. I believe there is.

Mr. BURLESON. Under which all oleomargarine manufactured in this country passes; and is it not within the power of the federal inspectors, if it is unwholesome or objectionable, as you mentioned a moment ago, to condemn it?

Mr. FLANDERS. I presume it is; it is in our State. I want to correct an impression, Mr. Chairman. It is not a matter of taste with me. I will illustrate the proposition. I may like the taste of well-made oleomargarine much better than I do rancid butter, but, from a health standpoint I prefer to eat rancid butter, because it has the butter fat and melts at the temperature of the body, and aids digestion, and the other may do otherwise.

Mr. BURLESON. I beg your pardon, because we are not inquiring about your individual taste, or the condition of your stomach, which would prefer rancid butter to oleomargarine. That is a matter of indifference to me, and I suppose it is a matter of indifference to the committee. The question is this—and the only question I wanted to bring to your attention—to see if we could agree on the proposition that the thing you had in mind was to prevent fraud in the sale of oleomargarine as butter. Is that what you are trying to accomplish?

Mr. FLANDERS. If you will add one word. I do not like that word "sale." We want to prevent the fraudulent sale and the fraudulent use of it. The word "use" I want there for the purpose of protecting the great traveling public.

Mr. BURLESON. The patrons of hotels?

Mr. FLANDERS. Yes.

Mr. BURLESON. I will insert the words, then, "fraud" and "use."

Mr. FLANDERS. Fraudulent use and fraudulent sale.

Mr. BURLESON. Fraudulent sale and fraudulent use of oleomargarine?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. That is what you are trying to accomplish, is it not?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. Do you insist before the members of this committee that the only means by which that can be accomplished is to use the taxing power of the Government?

Mr. FLANDERS. Mr. Chairman, I have never insisted on it, and I am not going to to-day.

Mr. BURLESON. Then, if we can find a way, if a way can be pointed out to the members of this committee, by which the fraud can be prevented, or by which the fraud can be minimized, without the misuse of the taxing power, you would be glad to accept that, would you not?

Mr. FLANDERS. I would be glad to present your views to those—

Mr. BURLESON. Not my views. I am just trying to ascertain your views, Mr. Flanders. If a means can be pointed out by which the fraud can be prevented, or by which the fraud can be minimized, made less than it is now, without the misuse of the taxing power, you,

as the president of the Dairy Union, would be glad to accept it, would you not?

Mr. FLANDERS. No, sir.

Mr. BURLESON. Then that is all.

Mr. FLANDERS. My answer to that is, he said "made less than it is now." It might be made 10 per cent less than it is now, and yet be 90 per cent fraudulent.

Mr. BURLESON. I said less than it is now for this reason: You can not prevent crime; you can not prevent the commission of crime, it makes no difference how drastic you make your laws. We have had laws against murder for thousands of years, and yet murders are committed. That is what I meant by minimizing or making it less than it is now.

The CHAIRMAN. Without splitting hairs, I suppose that what Mr. Burleson is trying to ascertain is whether you would be willing to assent to a law which did not carry the taxing feature, provided you could be convinced, in your judgment, that it would be effective in preventing the fraudulent sale and use of oleomargarine.

Mr. FLANDERS. Yes; that would be my personal view. I do not want this impression to prevail, that any personal view that I may entertain and may be lured into giving here should be understood to bind those whom I am representing who may disagree with me, possibly. It would be a question of judgment, whether your methods would work, of course.

Mr. LEVER. Is it your assumption that the present law is ineffective in preventing frauds on the public in the sale and consumption of oleomargarine?

Mr. FLANDERS. That is not my assumption, it is my strong assertion.

Mr. LEVER. So that the present law is absolutely ineffective. Would you be willing to repeal the present law, therefore?

Mr. FLANDERS. No; not until we get something better, for there are some other features in the law besides the tax question.

Mr. LEVER. Would you be willing to repeal the tax feature, if that is ineffective?

Mr. FLANDERS. I would not be willing to give up anything in the present law until we could get something that would better it.

Mr. LEVER. Have you any suggestion of your own that you think would better the situation?

Mr. FLANDERS. Yes.

Mr. LEVER. What is that?

Mr. FLANDERS. Don't you gentlemen get me into trouble here; I have not consulted very much on this.

The CHAIRMAN. We are considering several bills, and if there is any one of them that meets your views, we would be glad to hear from you on it.

Mr. FLANDERS. My view is this. That if we had a uniform, moderate tax on all oleomargarine, irrespective of shade or hue, and you had in that same measure a provision that no oleomargarine should be manufactured in the United States; that is, in imitation or semblance of butter of any shade of yellow, it would meet my approval.

Mr. RUCKER. Would not that practically drive it all out?

Mr. FLANDERS. No, sir. You take the firm that is here [referring to Mr. Jelke], their representative is selling oleomargarine in New York State, a great deal of it, I think, and I have never seen a pound

that was not pure white, as far as I could detect, and Mr. Jelke will pardon me for calling his name; I do not know whether it is with his approval or not, but his agent, a bright, active, energetic man, whose statements I have so far found to be correct in whatever he said, makes it one of his issues that it is simply and absolutely colorless oleomargarine.

Mr. RUCKER. I do not understand, probably, and I ask for information. As I understood you a while ago, you would be satisfied with a measure which would prohibit the manufacture and sale in the United States of oleomargarine which imitated any shade of yellow?

Mr. FLANDERS. Butter of any shade of yellow.

Mr. RUCKER. With a uniform tax on oleomargarine, whether colored or uncolored?

Mr. FLANDERS. Yes.

Mr. RUCKER. Why do you insist on a tax?

Mr. FLANDERS. I will tell you. I understand the Government of the United States to be a government of derived powers. They can exercise no powers except those which are given. The power to do this particular thing is not given. The power to tax is given, to raise revenue. The taxing power is a national power. When you tax, and incidentally provide, as a means of insuring the gathering of that tax, that a certain thing shall be done, the courts would uphold it.

Mr. RUCKER. Would not that be as true if the Government should tax butter as if it taxed oleomargarine?

Mr. FLANDERS. It might.

Mr. RUCKER. Would you favor a uniform tax on butter and oleomargarine?

Mr. FLANDERS. No, sir.

Mr. RUCKER. Why would you exempt butter from taxation and put the tax on oleomargarine, which is a substitute, or said to be a substitute? I am asking for information.

Mr. FLANDERS. Yes, sir; and I take your question to be one of inquiry as to any reason I may have. You would like to know if I have a good, genuine reason. I think I have, and I want to give it to you. There are in the United States to-day, manufacturing butter men, manufacturing it in small capacity, in a small way, until they are making a billion and a half pounds. In every State in this Union to-day money is provided, institutes are formed, and men are sent out to educate how to make the best and purest kind of the commodity. An effort of that kind is being made. Butter is almost a uniform commodity; the constituents in it never vary, practically. The condition of the constituents may vary, by varying surroundings, environment, but it is almost a universal product. It is almost assured that the nature of the commodity is always the same, and there is never, as a rule, any fraud practiced in its sale, as compared with other commodities.

Mr. RUCKER. I do not understand the uniform tax you speak of would tend very strongly to prevent fraud in oleomargarine.

Mr. FLANDERS. There is where our difference of opinion rests. I do think that this move that is made now is for the purpose of suppressing that fraud, and I am willing to say to you that my judgment is that we are getting at it in the best way we can under the Government of the United States as it is constructed. We must take one of the powers they have a right to use; and I understand in saying

that that I may be criticised, as I know that Senator Bailey criticised that attitude when it was before the Senate. But I am aware of the further fact that when Congress has a power, or a legislative party has a power it may exercise, it is not for the courts to pass on the question whether they used it wisely or unwisely. So I say to you that I think it is perfectly fair to say that, in collecting these taxes, we will not have any of it made in such form that it can deceive the tax collector into thinking it is butter, and so we will not have the tax paid on it, and therefore we will not have it made like butter.

Mr. RUCKER. We appreciate that, and assume that you are a patriotic citizen, and are advised that the Treasury is short of funds, and in view of the fact that butter is so universally used, do you not think it would be a good idea to put a tax on butter in order to raise the revenue?

Mr. FLANDERS. I enjoy the proposition advanced by the gentleman, and want to answer it by saying that I have been studying this question some, and I have not yet arrived at the conclusion whether a revenue measure must necessarily raise revenue, or whether it may reduce it, if it deals with revenue.

Mr. RUCKER. A small tax?

Mr. FLANDERS. And I understand now, and the oleo people told us seven years ago, that it was not necessary to raise a very big revenue; that we had all the money we wanted.

Mr. RUCKER. Do you not think it would be well to put a small tax, say 2 cents a pound, on all butter?

Mr. FLANDERS. No, sir; I do not think that is advisable to do, when we are struggling with the question whether, in time to come, the human family can be supplied with sufficient food to meet their needs.

Mr. RUCKER. Then why put a tax on oleomargarine, which is an article of food?

Mr. FLANDERS. Oleomargarine is a side issue that has thrived during the last forty years by fraud.

Mr. RUCKER. But you can assume that somebody probably does not know what good creamery butter is, has a deranged or disordered taste that would lead him to choose oleomargarine [laughter]; and therefore your argument just a moment ago was that it ought not to be taxed, if the effort is to get cheap food; and right now, it seems to me, would appeal to every patriotic citizen of New York, as well as other States, as a good time to have us reduce the cost of living rather than to increase it.

Mr. FLANDERS. Mr. Chairman, I agree with the gentleman entirely on the question that the man should have his choice. That is why I insist we ought to have a line of demarkation, so that the man who wants oleo can have oleo.

Mr. RUCKER. My understanding was this, you couple with your proposition a law which would absolutely prohibit, in your judgment, the sale or use of oleomargarine made in imitation of butter, and passed off on the consuming public as butter, and with a tax on oleomargarine?

Mr. FLANDERS. Yes.

Mr. RUCKER. And as the tax increased the price of a food product, would you not be satisfied with a law which covered the first part of your proposition, which made it impossible to manufacture oleomargarine in imitation of butter, and omit the tax?

Mr. FLANDERS. No, sir; I would not, because that law would not stand; would not be constitutional.

Mr. RUCKER. It would have to have a tax in order to make it stand?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. Not on butter.

Mr. RUCKER. I do not understand that Congress can not pass a law that is constitutional that has not a tax feature attached to it. It is true, pretty near everything we get is taxed, but I do not understand that taxes are absolutely essential to the validity of a law.

Mr. LEVER. Would we not have the power in Congress to tax butter to prevent the spread of disease through butter?

Mr. FLANDERS. I assume you would.

Mr. BEALL. Butter is taxed at the present time, is it not? I would like to ask the gentleman from Missouri, and also the gentleman from South Carolina, if they are in favor of putting a tax on butter?

Mr. LEVER. I will say no.

Mr. RUCKER. No.

Mr. LEVER. I would like to ask Mr. Flanders if we have the power in Congress to put oleomargarine under the meat-inspection law, the law that we now have?

Mr. FLANDERS. The gentleman is asking me some pretty strong questions, but I will give an opinion.

Mr. LEVER. That is what we want.

Mr. FLANDERS. I think you have.

Mr. LEVER. We would have the power also to put butter under the meat-inspection law, would we not?

Mr. FLANDERS. I think so.

Mr. LEVER. Butter is not now under the meat-inspection law, is it?

Mr. FLANDERS. I think not.

Mr. LEVER. Do you not know it is not?

Mr. FLANDERS. No.

Mr. LEVER. Is butter that goes into interstate commerce inspected by any government official under any law of the Federal Government?

Mr. FLANDERS. I think it is; yes, sir.

Mr. LEVER. Under the pure-food law, is it, or under the meat-inspection law?

Mr. FLANDERS. I think the butter is examined. I am not sure which statute it is under. The Secretary of the Treasury does some of the work, the Secretary of Agriculture does some of the work, but my impression is it is examined under the pure-food law.

The CHAIRMAN. That relates only to renovated or process butter, does it not?

Mr. FLANDERS. I think so; it is a question of moisture.

The CHAIRMAN. And the ordinary butter of interstate commerce is not inspected in any way?

Mr. FLANDERS. I think not as meat is inspected.

Mr. LEVER. And is it not a fact that creamery butter and cheese are the only two products that are not now under one of these two laws—the meat-inspection law and the pure-food law?

Mr. FLANDERS. I would like to answer the gentleman's question, if I could; but I can not. You make it very sweeping. There are lots of commodities; I do not know.

Mr. LEVER. Would you be willing, Mr. Flanders, if we are convinced in this committee that butter is a means of conveying tuberculosis and typhoid fever that we put butter under the meat-inspection law and have it put up in original packages, branded as butter, or branded as having been inspected and passed and free from these germs?

Mr. BURLESON. Which will guarantee its purity?

Mr. LEVER. Yes; which will guarantee its purity from disease.

Mr. FLANDERS. Going into interstate commerce?

Mr. LEVER. Yes.

Mr. FLANDERS. This question was thrust upon me suddenly yesterday, and on first blush I would say yes.

Mr. LEVER. How is that?

Mr. FLANDERS. I say, this question was thrust upon me suddenly yesterday; I have not had time to give it consideration or to consult with those who may be posted on it, but on first blush I would naturally say yes. Your question seems to indicate you are looking to prevent disease, and I believe that is laudable everywhere and under all circumstances—to prevent the spread of disease.

Mr. LEVER. If we could find a means under the meat-inspection law or under the pure-food law by which we can protect the public against the fraudulent sale and the fraudulent use of oleomargarine, taking the tax off it and reducing the cost of living to the consuming public, would you be willing for us to pass such a law?

Mr. FLANDERS. Again I must put my answer in the terms I used when I commenced my talk to-day, that what I stand for is that the line of demarcation between the two commodities shall be so clean and clear and distinct that nobody shall be deceived, from the purchaser to the consumer, and when you have done that, and stopped that fraud, you have done all I ask for.

Mr. LEVER. If we could prevent that deception you are for the bill?

Mr. FLANDERS. I am for your measure. But the gentleman's question is very broad, "If we can prevent that, you are for the bill?" The bill might have 40 other features that would be objectionable.

Mr. LEVER. I mean the bill as it affects that proposition?

Mr. FLANDERS. If you can stop that thing, I would be for it.

Mr. LEVER. You do not deny the right of the public to demand that its oleomargarine be colored, if it is to the taste of the public to have its oleomargarine colored?

Mr. FLANDERS. I do not deny, in this country, where majorities rule, the right of the public to have what they want, so long as it is not *malum per se*; but in answering that question I want it to be distinctly understood, also, that I do not believe the public have demanded, or ever will demand, that oleomargarine shall be made in imitation or semblance of butter.

Mr. LEVER. You have no objection to my wearing a red tie, if I prefer to wear it?

Mr. FLANDERS. Not in the least.

Mr. LEVER. You would not put a tax on the tie because the natural color of the material from which it was made was white?

Mr. FLANDERS. No, sir.

Mr. LEVER. You do not have any objection to the sale of mercerized cotton, which is a very fine imitation of the very best silk, do you?

Mr. FLANDERS. Not in the least.

Mr. LEVER. Why not?

Mr. FLANDERS. Because that is purely a mercantile question, and is distinguished from the other question in this way: What you put upon your back is a question of warmth, which you can control or a question of taste, which is your right. But what I put into my stomach—I make from that, blood, nerve, and muscle, and make the man. The difference in the situation is this: You select what you want to go onto your back, but if this fraud goes on, I do not select what I want to go into my stomach, but the fellow who would make money by it does. I want the same right to select my food that you have to select your tie.

Mr. STANLEY. Would you be in favor of putting a tax on lobsters, crabs, and schweitzer cheese, and everything like that that is unhealthy, because it is unhealthy?

Mr. FLANDERS. No, sir; I would be in favor of prohibiting the use of anything that is unhealthy.

Mr. LEVER. Mr. Flanders drew the distinction between what goes on the back and what goes in the stomach. Is oleomargarine a pure, healthy, wholesome, nutritious article of food?

Mr. FLANDERS. It may be or it may not be. That question would not be answered offhand as you have asked it, in my judgment, by any living human being.

Mr. LEVER. And the same might as well apply to butter that goes into commerce; is not that true?

Mr. FLANDERS. No, sir.

Mr. LEVER. We have had the statements of officials of the Government that butter is a conveyer of tuberculosis germs and typhoid-fever germs. How can you tell, without inspecting it, whether these germs are contained in the butter that does go into interstate commerce?

Mr. FLANDERS. I did not understand that you had that statement. That is a question that has been bothering me since yesterday, since I heard some statements that seemed to hint at that.

Mr. LEVER. We have some resolutions before the committee which set the facts out very carefully, and they are from a very careful gentleman, the gentleman from New York, Mr. Parsons.

The CHAIRMAN. I might say, in order to make the record complete, that the resolutions of Mr. Parsons are based on the statement made in the annual report of the Chief of the Bureau of Animal Industry.

Mr. RUCKER. He is supposed to be competent to determine those things.

Mr. FLANDERS. I would answer the gentleman by saying that if this resolution is based upon facts, that would be, in my judgment, sufficient warrant for the Government to take every means possible to insure the people against the spread of disease in that way.

Mr. LEVER. So that you would say, in answer to my question, that you can not tell positively whether butter is a wholesome, cleanly, nutritious article of food or not?

Mr. FLANDERS. Yes, I think butter is; I do not think it has ever been denied.

Mr. LEVER. But it has been denied by this official of the Government.

Mr. FLANDERS. No, that is butter made from an animal that is diseased. It is not intended to make butter that way. Let me draw the distinction, if you will; it is never intended by the butter maker to make butter from a diseased animal, or from the product of a diseased animal. Oleomargarine that I should class as unhealthful is designedly made that way when it is made at all—I might almost say with malice aforethought. The man who puts 12 per cent of paraffin wax in his oleomargarine does so intentionally. The man who makes butter—

Mr. BURLESON. Do you know that Doctor Crampton, who has charge of the investigation, made the statement here yesterday that since the meat-inspection law five years ago, no paraffin has been used in oleomargarine? Did you not hear him state that?

Mr. FLANDERS. No, sir.

Mr. BURLESON. You did not hear him make that statement here yesterday?

Mr. FLANDERS. No, sir. May I explain that answer? I heard Doctor Crampton, as I understand it, say he had not found any.

Mr. BURLESON. Is it not his duty to inspect and analyze and investigate with a view of determining whether there is any?

Mr. FLANDERS. I should dislike to be put in the position of telling what Doctor Crampton's duties are; but, if the gentleman remembers correctly, I asked Doctor Crampton distinctly if he had made examinations for the purpose of determining whether paraffin was there, and he said no.

Mr. LEVER. I understand your objection to oleomargarine is that it may be made out of diseased animals, as it were, and hence be unwholesome and unhealthful; that is one objection?

Mr. FLANDERS. I wish the gentleman would put it this way, that my objections are to certain oleomargarines, for I stated in the beginning that, as far as oleomargarine, as such, was concerned, I had no quarrel with it so long as it remained—

The CHAIRMAN. Perhaps this whole matter can be cleared up with one statement.

Mr. LEVER. I think I will get at it, Mr. Chairman, by my questions.

The CHAIRMAN. Very well.

Mr. LEVER. Do you know, Mr. Flanders, whether or not there is any federal law compelling the inspection of dairy cows for the purpose of developing whether or not they have tuberculosis?

Mr. FLANDERS. I know there is a law under which the Bureau of Animal Industry operates. I know they look after infectious and contagious diseases. I would not want to interpret it as closely as the gentleman wants me to without seeing the statute.

Mr. LEVER. As a matter of fact, the committee knows there is no such law, and hence, if there is not such a law, is it not possible that the milk from tuberculous cows going into the butter may carry this dread disease, tuberculosis?

Mr. FLANDERS. I do not know what to say about that bacteria going through the milk in the udder and rising with the cream and remaining in that portion of the cream that goes into the butter. We have not found it in New York State, and we have looked after it. I am not prepared to say it would not be there, and I am just as certain that I would not dare to say that it would be found there.

Mr. BEALL. Let me, right there, ask you a question to see if you agree with a statement contained in a report of the Department of Agriculture, the Bureau of Animal Industry, of 1907:

The facts presented seem to warrant the conclusion that tuberculous cows are responsible, in a great measure, for the presence of tuberculosis in the human family.

Do you agree with that statement?

Mr. FLANDERS. I do agree with it.

Mr. BEALL. Does that correspond with your observation and experience?

Mr. FLANDERS. That is quite a different statement, however, Mr. Congressman. They have what they call intestinal tuberculosis, which comes often from drinking the cream. That is not contracted from the cream rising on the milk and then passing into butter, which was the question asked by the gentleman.

The CHAIRMAN. I do not wish to be understood as attempting to unduly restrict members of the committee in the questions they shall ask, or the witnesses in the ground they should cover, but it seems to me that time will be saved if we accept this general proposition, that pure oleomargarine is a wholesome and nutritious food product, and pure butter is a wholesome and nutritious food product, the oleomargarine people admitting, on the one hand, that, as a general proposition, butter is a good food; and the dairy people admitting, on the other hand, that, as a general proposition, oleomargarine is a safe food product, each of them admitting that oleomargarine may be made in such a way that it will not be wholesome, and each of them admitting that butter may contain disease germs which would make it unsafe. Would you assent to that?

Mr. FLANDERS. In general terms; yes.

The CHAIRMAN. As a general proposition, and let it go. What we are trying to do is to find out a means of framing legislation that will prevent the fraudulent sale—

Mr. BURLESON. That is the crux.

The CHAIRMAN (continuing). Of oleomargarine for butter, and any question outside of that, it seems to me, ought not to give us very much concern.

Mr. LEVER. We want to see if Mr. Flanders accepts the statement of the chairman as outlining the facts.

Mr. FLANDERS. Generally, I said; yes. I would like to make a little modification, for I have found, heretofore, that sometimes, taking the record, they have a man assenting to something he does not want to assent to. I do not want to assent to the proposition that oleomargarine is wholesome and nutritious if it is properly made, in the degree butter is.

The CHAIRMAN. I did not say that, any more than celery is as wholesome and nutritious as beefsteak is.

Mr. HAUGEN. In order to clear up this tuberculosis proposition—it seems to me a great deal of stress is laid on that—I want to ask the gentleman this question: If any cream containing these diseases is made into oleomargarine, will it not produce the same results as if made into butter?

Mr. FLANDERS. I was laboring under that impression yesterday, and asked Doctor Wiley, and he said yes.

Mr. HAUGEN. The statement of Mr. Swift, who is a manufacturer of oleomargarine, is this, that about 40 per cent of the best oleo-

margarine consists of cream and butter, and about 25 per cent of the lower grades is made up of butter and cream.

Mr. BURLESON. Subjected to heat that destroys the germs, the microbes.

Mr. HAUGEN. Subjected to a heat in manufacturing butter as well.

Mr. RUCKER. Do I understand your position, Mr. Haugen, that because the oleomargarine people use butter, therefore oleomargarine is not good?

Mr. HAUGEN. Oh, no. I simply wanted to clear up this proposition.

The CHAIRMAN. Mr. Flanders, I would like to ask you one question before you sit down. I realize we are keeping you too long now, but you are giving the committee information, and that is what we want to get. I should like to inquire whether, in your judgment, the pure-food law would cover oleomargarine. The pure-food law, as I understand it, forbids the sale of any food product in interstate commerce that is misbranded or adulterated, and surely, if oleomargarine were labeled "Butter" it would be misbranded. What is your opinion upon that?

Mr. FLANDERS. I think it would be misbranded, of course, if it were labeled "Butter;" but we do not claim that oleomargarine that goes into interstate commerce is misbranded, as a rule. The rule is that when the wrappers and brands are taken off, it goes on the table of the place of entertainment, and it has gone beyond interstate commerce, and there is where the deception comes in.

Mr. LEVER. One question before you leave that. Do you know what per cent of the butter of this country is consumed by the hotels and restaurants?

Mr. FLANDERS. No, sir; I do not.

Mr. LEVER. Is it a larger or a smaller per cent than the private consumption?

Mr. FLANDERS. I have never given that subject any thought. The best I can say is that it is a very large amount. I could give you an illustration with another commodity what some of the big hotels do if I could have a minute to do it in. I went to see ex-Governor Henry at one time, and they were raising chickens, and the man who had charge of them said to me, "We sell them all in New York City at \$1 to \$1.25 a pair." I said, "Do you? Do you have any trouble in selling them?" He said, "No; one hotel takes them all." I said, "How many do you sell in a year?" He said, "We sell from ten to twelve thousand pairs in the course of a year." I said to myself, "Well, if one hotel in New York takes from ten to twelve thousand pairs of chickens in a year, I want to know how much butter and eggs they take."

Mr. LEVER. And that is a fraud committed upon the patrons of that hotel that you make no effort to reach at all?

Mr. FLANDERS. I do not understand the question.

Mr. LEVER. I understood they raised a very limited number, and—

Mr. FLANDERS. Oh, no; they raised them all.

Mr. STANLEY. Do you think a hotel would pay \$1.25 a pair for chickens and yet put bogus butter on the table?

Mr. FLANDERS. No; I would not presume that any respectable hotel would.

The CHAIRMAN. Yet Doctor Crampton stated here that the records of the internal-revenue office show a considerable sale of oleomargarine to the creameries. Has that matter been brought to your attention?

Mr. FLANDERS. No; except by our friends.

The CHAIRMAN. You have no first-hand information on that?

Mr. FLANDERS. No, sir. In the State of New York at one time it was charged that farmers were buying oleomargarine and selling it as butter and mixing it with butter, and that creameries were doing that, and at one time we put forth extreme efforts there to find any such conditions, if they were prevailing, and I say to this committee that we never found a single instance.

Mr. HAUGEN. If they do that, they violate the law and subject themselves to fines?

Mr. FLANDERS. Yes, sir. Now, one statement I will make to the committee before calling others. Mr. Burleson stated a moment ago, and I noticed that it was stated yesterday once or twice, and I want to remove the impression, that when oleo is manufactured all the constituents are heated to a sufficient degree to kill germs of disease.

Mr. BURLESON. I based that upon Doctor Wiley's statement.

Mr. FLANDERS. Yes; thereby leaving the impression that all the constituents are subjected to such heat. The truth is that that is not true of the milk or cream or butter that goes into the oleomargarine, but it is true of the other constituents; so that if butter is the subject of criticism on the ground that it may contain bacteria that are harmful, so must oleomargarine be subject to the same criticism, which has butter, cream, or milk mixed with it.

Mr. BURLESON. If your statement is true I concur in the proposition that oleomargarine should be subjected to a bacteriological test to see whether it is conveying tuberculosis or typhoid, and I am perfectly willing to put it under the meat-inspection law for that purpose, together with butter.

Mr. HAUGEN. I want to ask you this: I did not hear the first part of your remarks. I understand you to say that you do not care, you are not solicitous, about the tax upon oleomargarine? If a law can be so framed that it will prevent the sale of oleomargarine as butter and the distinction can be maintained from the factory to the table, between the two points, that is all you seek?

Mr. FLANDERS. The prevention of that fraud; yes, sir.

Mr. HAUGEN. The checking of it?

Mr. FLANDERS. Either sale or use.

Mr. HAUGEN. But you do not want to absolutely stop the sale and use of oleomargarine?

Mr. FLANDERS. No, sir.

Mr. HAUGEN. You want a law that will prevent the sale or use of oleomargarine under the impression by the user that he is getting butter?

Mr. FLANDERS. Yes. In other words, if I may state it briefly and concisely, the bone of contention, so far as I am concerned, is and ever has been that we want to blot the fraud out of oleomargarine, and leave oleomargarine, with all of its good qualities, for those who may want it.

Mr. CURRIER. Is it not true that there is more or less unwholesome and rancid butter sold by the butter makers of the country?

Mr. FLANDERS. That is a general question, and it is a double-header, and I can not answer both questions at once. I will answer one of them.

Mr. CURRIER. Is it or not true that any is sold by the butter makers that is rancid and unwholesome?

Mr. FLANDERS. That is a double header, too. I will answer both. I am under the impression that there is some rancid butter sold. I am not sure, nor am I inclined to think, that because butter is rancid it is unwholesome. I further am laboring under the impression that the rancid butter that is sold to-day is at the minimum as compared to what has been sold before. Before they renovated butter, before they put it through the new process, there was much butter that was a drug upon the market because it was made in remote districts, and made in small quantities, and when they began to pick it up and renovate that butter they did do what was stated here yesterday; they would take a lot of rancid butter and put it through the process and take the rancidity out; but to-day I understand that the factories can not get sufficient material and they take the butter fresh, and it goes right through the process, and it is put through the process not for the purpose of taking out any rancidity, because it is not rancid, but for the purpose of making a uniform product.

Mr. CURRIER. In fact, there is more or less unwholesome butter sold by the butter makers, is there not?

The CHAIRMAN. Pardon me, I do not believe the committee cares to go into that any further. Mr. Flanders is quite willing to admit that butter may become rancid, and that rancid butter may be sold, but that is not the proposition that is before the committee.

Mr. CURRIER. The only proposition I wanted to make is this: Would the consumer in a boarding house or a hotel or a restaurant know what kind of butter he was getting, whether fresh creamery butter or whether an unwholesome butter, without its being properly labeled? He wants to know whether he is getting oleo.

Mr. FLANDERS. The answer to that is that the rancid butter always warns the consumer, while oleo does not.

Mr. RUCKER. Does the rancid butter, after it has been resurrected and rectified?

Mr. FLANDERS. There is not much trouble there. May I say a word there? I have an idea what rancidity means, and I do not know whether the gentleman who asked me the question has or not. I understand it is a breaking down of the volatile oils and a passing off and a decaying condition of things. That is not necessarily unhealthful. That process has to go forward when the butter gets into the stomach, and the fact that these oils are broken down makes it an easily digestible product, and the impression intended to be left here yesterday was that exactly the opposite is true. Oleomargarine is not better, but worse, because it will not do that thing. It does not have the volatile acids and oils that go through that action in the stomach.

Mr. McCARTHY. May I ask you a question?

Mr. FLANDERS. Yes.

Mr. McCARTHY. I would like to ask you if you contend that oleomargarine contains paraffin and slippery elm bark?

Mr. FLANDERS. That is a double-header.

Mr. McCARTHY. I will ask you, then, do you charge that oleomargarine contains paraffin wax?

Mr. FLANDERS. No; I do not contend that it always contains paraffin wax. We have found it on sale in the market in New York City containing 12 per cent of paraffin wax.

Mr. McCARTHY. How long ago was that?

Mr. FLANDERS. It was some time ago.

Mr. McCARTHY. Not since the meat-inspection law was passed?

Mr. FLANDERS. I think not.

Mr. McCARTHY. Have you found any slippery-elm bark in oleomargarine?

Mr. FLANDERS. Not that I know of.

The CHAIRMAN. Pardon me, but I do not think the committee cares to go into that.

Mr. McCARTHY. I just wanted it on the record for oleomargarine.

The CHAIRMAN. We are trying to find some way to prevent the fraudulent sale of oleomargarine, and it does not make any difference whether oleomargarine is made of chips and whetstones, or what it is made of.

Mr. LEVER. If renovated butter is used in the hotels in place of creamery butter and high-grade butter, would you call that a fraud upon the consuming public?

Mr. FLANDERS. Wait a moment. I do not believe I get the full import of your question. You say if renovated butter is used in the hotels—

Mr. LEVER. No; I say if renovated butter is used in hotels as creamery butter, you would regard that as a fraud upon the public?

Mr. FLANDERS. Yes; if renovated butter is sold as creamery butter. In my judgment that is a close question. It is a question of labeling. My understanding is, however, that the renovated butter is not entitled to the term "creamery butter."

Mr. LEVER. Yes.

Mr. FLANDERS. And if it is used, and it is not entitled to it, it is a deception and fraud that ought not to be practiced?

Mr. LEVER. Yes; and the patron of the hotel and the restaurant is always liable to be imposed upon by the commission of this fraud, thinking he is getting good creamery butter when as a matter of fact he is getting a renovated butter.

Mr. FLANDERS. I can not consent to that.

Mr. LEVER. You would not consent to that?

Mr. FLANDERS. No, sir; I can not think that when a man sits down to the table and eats butter, he really carries in his mind whether he is getting dairy or creamery butter. I think the average consumer, when he sits down to the table in a hotel, thinks he is getting butter, and he is not deceived if it is butter.

Mr. LEVER. But there is a difference between renovated butter and the other butter you mentioned, is there not?

Mr. FLANDERS. I should assume that there is a difference.

Mr. LEVER. Yes.

Mr. FLANDERS. Not a great or a material difference, but a difference, from the fact that one is a butter of the second degree, so to speak, which has been melted over; but it is butter fat.

Mr. LEVER. Would you have any objection to a law which would advise the consumer that he is eating renovated butter?

Mr. FLANDERS. At a table?

Mr. LEVER. At the table, or as near to the table as you can get it.

Mr. FLANDERS. We have not passed any such law in New York State, and we have considered it in all its features. I do not understand that the National Government has any right to pass such a law, and I do not think I ought to answer that question here.

Mr. LEVER. Would it not have as much right to pass such a law—

Mr. FLANDERS. You say at the table?

Mr. LEVER. I said as near to the table as possible.

Mr. FLANDERS. Oh, I would find no fault with that.

Mr. HAUGEN. Under the law renovated butter must be sold as process and renovated butter?

Mr. FLANDERS. Yes.

Mr. HAUGEN. And be taxed one-quarter of a cent a pound?

Mr. FLANDERS. Yes.

Mr. HAUGEN. And if it is adulterated, it is taxed 10 cents a pound, is it not?

Mr. FLANDERS. Yes.

Mr. HAUGEN. Creamery butter containing a certain per cent of moisture is also held to be adulterated butter and subject to the tax?

Mr. FLANDERS. Yes; I so understand it.

Mr. HAUGEN. So that there is no discrimination there?

Mr. FLANDERS. There is legislation on that subject now.

The CHAIRMAN. In the States where hotel and restaurant keepers using oleomargarine are required to advertise that fact by placard, is the same requirement made in case they use process butter?

Mr. FLANDERS. Now, Mr. Chairman, I want to take that back. It is not in New York.

Mr. McCARTHY. May I ask the witness another question, in line with what I think the committee wants to learn? I would like to ask him this question: According to some of these bills, assume that the oleomargarine is put in small packages and the manufacturer keeps an accurate record of every pound he sells, and the wholesaler keeps an accurate record of every pound that he sells; do you not think that by that means the purchaser, the ultimate consumer, would be protected in knowing that he gets oleomargarine, if these regulations are under the supervision and control of the Bureau of Internal Revenue?

Mr. FLANDERS. Not necessarily.

Mr. McCARTHY. Why not?

Mr. FLANDERS. It depends on who the ultimate purchaser or consumer is. I will illustrate that by saying, if I am running a boarding house and come here and buy it with the wrappers on, I know what I am getting, but if I take the wrappers off and put it before you, you do not know what you are getting.

Mr. McCARTHY. Just for a moment, will you grant that under this proposition the householder—not the boarding-house keeper or the hotel keeper, but the householder—would be protected in that way?

Mr. FLANDERS. Yes; the person who did the purchasing at the store would be protected. His wife and children might not be.

Mr. McCARTHY. Then that would eliminate everybody from this proposition except the boarding-house keeper and the hotel keeper?

Mr. LEVER. And the wife and children.

Mr. McCARTHY. And the wife and children; and you will admit that the wife and children are not imposed upon much, if it is a wholesome product?

Mr. FLANDERS. No; I do not admit that.

Mr. RUCKER. I understand that the people of Washington thought they were imposed upon like thunder last winter because they could not get any, because butter was so high that they could not pretend to buy it.

Mr. STANLEY. Do the high-class hotels use oleomargarine for butter?

Mr. FLANDERS. No, sir.

Mr. STANLEY. The cheap hotels and hash houses, their occupants eat so many strange things that it is not a matter of much importance, is it?

Mr. FLANDERS. I would answer that by saying that it sounds too much like saying of a man, "He hasn't got any friends; hit him again."

Mr. BURLESON. With the present high cost of living, when here is a food product—butter—wholesome, nutritious, and pure, do you mean to tell the committee if a substitute for this product could be found, wholesome and nutritious, that looks like butter, that tastes like butter, and smells like butter, it should not be used unless the Federal Government lays a heavy tax upon it?

Mr. FLANDERS. I do not want to put it that way.

Mr. BURLESON. I am perfectly willing to have you put it just as you see fit to put it, Mr. Flanders.

Mr. FLANDERS. Then I will put it this way: That if the substitute that the gentleman talks about is not found, but is manufactured, and is designedly manufactured to look, smell, and taste like the other product, with the end in view, and the ultimate result, that fraud is thereby practiced, I should insist that he change his method just enough so that the fraud would be wiped out.

Mr. BURLESON. Well, now, that is the very answer that I desired to have you give. Then, if a means can be pointed out by means of which the fraud can be prevented, or prevented more than under existing conditions, you would be perfectly willing to see it done, and take off the tax, so that this substitute can be used by the people who could not afford to pay a higher price for the original article about which I spoke?

Mr. FLANDERS. I do not desire to see unnecessary burdens. I do believe the fraud should be stopped, and stopped with the least burden, in doing it, that is possible.

Mr. BURLESON. I agree with you thoroughly on that.

Mr. FLANDERS. I put it that way. That is the way you put it.

Mr. BURLESON. One more question. You persist in making the statement that a white oleomargarine can be manufactured?

Mr. FLANDERS. Yes.

Mr. BURLESON. You stated that yesterday?

Mr. FLANDERS. Yes.

Mr. BURLESON. You state it again to-day?

Mr. FLANDERS. Yes.

Mr. BURLESON. During the succulent months—I believe you used that term—the color is given to the butter by reason of the food that the cow consumes. Now, during those months, if the oleomargarine manufacturer uses the milk taken from those cows, or cream taken from that milk, and the butter made from that cream, in the manufacture of the oleomargarine, it will necessarily give a color to the

oleomargarine, because you stated a moment ago you could not extract that color from the cream or the milk or the butter; did I not understand you so to say?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. Then, according to your conception, if they are going to use milk or cream or butter in the manufacture of oleomargarine, necessarily there must be a tinge of yellow, or a tint of yellow, or a color of yellow in it, during the succulent months, must there not?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. Then, during those months, if the bill that you advocate here is passed, the manufacture of oleomargarine will be absolutely prohibited unless they cut out of the manufacture of oleomargarine these three articles which I have named?

Mr. FLANDERS. Yes, sir.

Mr. BURLESON. That is true?

Mr. FLANDERS. Yes.

Mr. BURLESON. Now, what color is that [handing witness a piece of paper]?

Mr. FLANDERS. Now, I do not know as I want to attempt to state.

Mr. BURLESON. What would you call it?

Mr. FLANDERS. I should call it white.

Mr. BURLESON. It is white paper, is it not?

Mr. FLANDERS. I should say so.

Mr. BURLESON. All right. Hold it up there, now. When I put this other piece of paper by it, would you say that that was white, that second piece [exhibiting a second piece of paper]?

Mr. FLANDERS. I would say that the second piece was white, and that I had made a mistake before.

Mr. BURLESON. And that it had a tinge of yellow in it, would you not?

Mr. FLANDERS. No; I would not. Let me state it. I would say that the other piece was once white, and is now dirty.

Mr. BURLESON. Well, wait a minute, Mr. Flanders, and let us see if that is dirty. Here is another. I have pulled this right out of the middle of the package on the table here, where no hand has touched it, and I will put this same second piece beside that. You do not claim that that is dirty, do you, or soiled [again exhibiting pieces of paper]?

Mr. FLANDERS. Oh, I make no claim; no, sir.

Mr. BURLESON. I ask you to state it for the benefit of the committee.

Mr. FLANDERS. Let me say—

Mr. BURLESON. Wait a minute. I ask you to state it for the benefit of the committee. Is that soiled or dirty?

Mr. FLANDERS. I can not tell you. I have not been qualified as an expert.

Mr. BURLESON. Let me ask you, has that a tinge of yellow in it or not?

Mr. FLANDERS. I do not think it has. I do not know. I do not pretend to be an expert on color.

Mr. BURLESON. Now, I will pass it along to the members of the committee.

Mr. RUCKER. It looks to me from a distance as though one was white and the other had a tinge of white in it.

Mr. BURLESON. So that a tinge of yellow is a comparative term, is it not?

Mr. FLANDERS. I do not know. Now, gentlemen of the committee, Mr. Burleson has attempted to make an expert of me and to have me testify to determine where we draw the line and where the standard is. I have spoken on this line from the standpoint of the color of yellow butter and renovated butter, but I do not wish to be understood as saying, when you come to the point of passing upon the color, that I would be qualified then to speak at all. I am not an expert on that subject.

The CHAIRMAN. I have just one more question, Mr. Flanders, and that is this: If the law on the statute books is to remain in all these other particulars, in your judgment would the fraud be increased or minimized if we lowered the 10-cent tax. For example, if the tax on colored oleomargarine was the same as that on white oleomargarine, would there be the same number of frauds committed, in your judgment, that are now committed?

Mr. FLANDERS. That is a very hard question to answer, Mr. Chairman. I will answer it the best I can. First, you ask me would there be as many frauds. I think that would depend upon how much you lowered the tax. If you lowered it so that it was the same as that on white oleomargarine, I think there would not be as many frauds. I understand to-day that the oleomargarine mostly, that is sold, has a yellow tint, like butter, and it pays a tax of a quarter of a cent a pound, because they can not find artificial coloration therein, yet it has that coloration by virtue of the ingredients, and that therefore 95 per cent of the oleo sold, or thereabouts, is sold in violation of the taxing law. Whether that would be reduced by reducing the tax or not would be a matter of prophecy, and I would not undertake to say.

The CHAIRMAN. My question was based on a statement made by Doctor Crampton yesterday that frauds had very largely increased in number since this differentiation was made in the tax, over the number under conditions that existed under the old law.

Mr. FLANDERS. May I speak on that?

The CHAIRMAN. Yes.

Mr. FLANDERS. That is true. And why? Because prior to 1886 all oleomargarine was taxed at 2 cents a pound, and they could make it colored and uncolored as they saw fit, and therefore making it colored was not a violation of the statute. So there could not have been any violation prior to that time of that kind.

Mr. HAUGEN. Most of the States enacted laws prohibiting the coloring of oleomargarine?

Mr. FLANDERS. Yes.

Mr. HAUGEN. I have figures on a number of them here. For instance, 5,492 dealers sold 62,825,000 pounds in the year 1899, and under the law of 1886 the tax on the colored and the uncolored was exactly the same, 2 cents a pound. The number of dealers engaged in the fraud was 5,492, and they sold 62,000,000 pounds, and I would like to know if the frauds at the present time exceed those of 1899. If so, I think that is entitled to some consideration and some investigation.

The CHAIRMAN. I understood the gentleman from Chicago to say yesterday that those alleged frauds were committed at a time when the supreme court of Illinois had held, or when it was believed that it would hold, the law to be unconstitutional, and therefore the law was absolutely not enforced.

Mr. HAUGEN. That was in the State of Illinois. There, 717 dealers sold 11,000,000 pounds. In the State of Ohio 1,005 dealers sold 8,830,000 pounds; in Kentucky 217 dealers sold 1,445,000 pounds.

The CHAIRMAN. Is that from the internal-revenue report?

Mr. HAUGEN. This is from the report of the Secretary.

Mr. BURLESON. I think the gentleman is laboring under an apprehension that every sale of oleomargarine is a fraudulent sale.

Mr. HAUGEN. Here is the report of the Secretary, and here I have the laws of the various States, 32 of them, absolutely prohibiting the sale of yellow oleomargarine; and out of a product of 86,000,000 pounds, 62,000,000 pounds were sold in those 32 States, and every pound of it was sold in violation of the state laws.

Mr. BURLESON. What States prohibited the sale?

Mr. HAUGEN. Alabama, California, Colorado, Connecticut, Delaware, Georgia, Iowa, and so on.

Mr. BURLESON. They prohibited the sale of oleomargarine at all?

Mr. HAUGEN. Yes; of yellow oleomargarine; 32 States.

Mr. BURLESON. Yellow oleomargarine?

Mr. HAUGEN. Yes, sir; and the number of pounds of oleomargarine sold, and sold in violation of the law, was 62,000,000 pounds.

Mr. BURLESON. In connection with that statement, I want that report embodied in the record.

Mr. HAUGEN. Certainly; it is printed right here in the hearings, in Secretary Gage's report.

The CHAIRMAN. Of course this shows that the color line was adopted without success.

Mr. HAUGEN. Mr. Chairman, I have here a translation of the laws of the various countries, and I would like to have that incorporated in the hearings.

The CHAIRMAN. It is within reasonable compass, is it?

Mr. HAUGEN. It is a few pages, here. This has been translated by the Agricultural Department, and it is accompanied by a letter from the Secretary of Agriculture.

The CHAIRMAN. Will you prepare for the record the part of Secretary Gage's report that you believe to be pertinent to this investigation, so as not to have included any unnecessary matter?

Mr. HAUGEN. I will do so.

Mr. BURLESON. And I would like to have Mr. Haugen state, in connection with the laws of the other countries, whether or not there is a tax levied upon oleomargarine in those other countries.

Mr. HAUGEN. There is no tax.

Mr. BURLESON. That is all right.

The CHAIRMAN. There is a call of the House, and it is 12 o'clock, and the committee will be compelled to adjourn until 2 o'clock this afternoon.

(At 12.15 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

(The papers referred to by Mr. HAUGEN are here printed in full, as follows:)

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., March 22, 1910.

Hon. G. N. HAUGEN,
House of Representatives, Washington, D. C.

DEAR MR. HAUGEN: Your letter of the 10th was duly received, and I directed the Bureau of Animal Industry to give attention to your request for a translation of the French report of 1903 concerning the repression of fraud in the sale of butter and oleomargarine. I send herewith a translation of certain portions of the report referred to covering the points in which I understand you are specially interested. If you desire any further translations made from this report I shall be glad to have the work done.

As the report referred to was made in 1903, it does not of course include any laws enacted since that year, and it is possible that there may have been some new legislation in some of the countries since then. As I understand that you desire the latest information on the subject, I have asked the State Department to procure copies of any later laws that may have been enacted, and I shall be glad to give you the benefit of any information that may be received in response to this request.

Very respectfully,

JAMES WILSON, *Secretary.*

Oleomargarine cases terminated and amount of fines and costs collected under the act of May 29, 1901, to and including December 31, 1909, and paid into the state treasury for the use of the Commonwealth.

Commissioner.	Year.	Cases terminated.	Fines and costs paid into state treasury.
Wells and Cope.....	1901	16	\$1,180.00
Do.....	1902	117	4,113.59
Total.....		133	5,273.59
B. H. Warren.....	1903	35	2,498.85
Do.....	1904	48	1,115.10
Do.....	1905	101	8,280.41
Do.....	1906	118	11,743.44
Total.....		302	23,637.80
James Foust.....	1907	157	14,827.88
Do.....	1908	67	7,139.05
Do.....	1909	273	23,399.85
Total.....		497	45,366.78

NOTE.—During the three years of Commissioner Foust's administration 497 oleomargarine cases have been terminated as compared with 435 cases terminated during the six years of Commissioners Wells, Cope, and Warren; and that \$45,366.78 in fines and costs has been paid into the state treasury as compared with \$28,961.09 paid in during the six years of his predecessors.

The above figures, taken from the records of this office, clearly prove that the oleomargarine law during my administration has been more vigorously enforced than at any time in the history of the department.

This statement is issued for the reason that there has been some criticism of the dairy and food bureau as to the enforcement of the oleomargarine law, and in order that the facts may be fully and correctly laid before the people for their information.

JAMES FOUST,
Dairy and Food Commissioner.

REPORT OF THE LEGISLATIVE COMMITTEE IN CHARGE OF THE PROJECTED LAW MODIFYING THE LAW OF APRIL 16, 1897, CONCERNING SUPPRESSION OF FRAUDS IN THE BUTTER TRADE AND IN THE MANUFACTURING OF MARGARINE, BY M. LUCIEN CORNET, DEPUTY.

Translation.—Extracts from Public Document No. 1877 of the French Chamber of Deputies, extraordinary session, 1903.]

Falsifications of food products were becoming more and more common. In 1869 margarine was invented by M. Mège-Mouriés, and its similarity to butter made it possible to offer it for sale as such. In fact, at first, margarine was only used for this purpose, until the numerous complaints led to the enactment of the law of March 14, 1887, which reserves the designation "butter" exclusively to products of milk. It was prohibited to sell the imitation under any other designation than margarine. The law, however, did not fix any penalties for infractions and violations. To discover the fraud was also nearly impossible, as the law only prohibited the substitution of margarine for butter, but did not refer to mixtures or fix any maximum or minimum proportion of margarine that might be permitted.

The complaints continued and led to the enactment of the law of April 14, 1897, the purpose of which was not only the punishment of frauds, but also their prevention. One of the most important features of the new law was that it prohibited the manufacture and sale of butter and margarine in the same room. The one who produces and sells butter must not have margarine in his store. The law also provided for a system of inspection of the manufacturing and sale of margarine. Inspectors are appointed by the Government and have authority to enter stores, depots, magazines, and factories, and to take the samples necessary for the examination.

The law further prescribes that margarine shall be labeled distinctly and indelibly as such, and that the name of the manufacturer shall appear very distinctly. This led to another fraud. The manufacturers printed the name of the product in small, hardly visible, letters, while the name of the firm was printed so as to entirely catch the eye. The committee recommends to reverse this so that the very distinct and indelible shall refer to the product, while the name of the firm may be printed in smaller letters.

Article 2 of the law of April 14, 1897, reads:

"All food products outside of butter, no matter what their origin or composition, which are similar to butter and prepared for the same use as butter, shall only be designated as margarine."

To margarine, thus defined, must not be added coloring matter.

"ART. 3. Producers of butter must not keep margarine or oleomargarine in their stores or at other places; neither shall they permit anybody else to keep such products in their stores."

This prohibition also applies to merchants, agents, and dealers in butter.

Margarine and oleomargarine must only be offered for sale at places especially designated for that purpose by the municipal authorities.

"ART. 4. All manufacturers of margarine and oleomargarine must make a declaration, in Paris, to the chief of police, in the provinces to the mayor of the community.

"ART. 5. Buildings where margarine is prepared, kept, or sold, must be provided with a sign, in letters at least 30 centimeters high, containing the following: 'Factory depot, or sale of margarine and oleomargarine.'

"ART. 9. All boxes, cases, and packages containing margarine or oleomargarine must be labeled as stated above.

"ART. 11. It is prohibited to keep or sell margarine or oleomargarine not labeled as indicated above. The absence of the label will cause that the product will be considered as butter."

Penalties.

"ART. 16. Those who willfully violate the prescriptions of this law shall be punished by imprisonment from six days to three months and a fine of from one hundred to five thousand francs, or only one of said penalties. Persons who will not name seller or shipper of the goods will be considered as principals.

"Express or transportation companies on land or sea that have violated the prescriptions in article 10 and 12 may be fined from fifty to five hundred francs.

"Persons preventing inspectors and experts from performing their duties, refusing them admittance to their factories, depots, and stores, and refusing to deliver samples, may be fined from five hundred to one thousand francs.

"ART. 17. The use of matter which may have an injurious effect on the health in making margarine shall be punished according to article 423 of the penal code.

"ART. 19. The courts may always order verdicts of conviction of violation of this law published in newspapers or by means of placards.

"ART. 20. Matters and mixtures designated as fraudulent may be confiscated."

A decree of November 9, 1897, contains the regulations for the application of the law of April 14, 1897.

GERMANY.

[Law of June 15, 1897. Prescriptions of July 4, 1897. Rules of March 1, 1902.]

The prescriptions, rules, and regulations governing the butter trade and the production and sale of margarine, margarine cheese, and artificial fats are nearly identical with the French ones. Only the German law does not contain any prohibition against coloring margarine, etc., so as to appear like natural butter, etc. These products have to be manufactured and sold in separate stores provided with signs indicating the kind of goods manufactured and sold. The packages have to be labeled as in France, and, besides, must be marked with a very conspicuous red border. When sold without wrappers, the pieces shall have a cubic shape, and the denomination of the goods must be imprinted in the goods itself. Public inspection is provided for.

Penalties.

Liable for imprisonment for not more than six months and a fine of not more than 1,500 marks are the following:

Those who, for a fraudulent purpose, shall prepare mixtures prohibited in article 3. Those who sell, offer for sale, or put on the market such mixtures.

Those who prepare margarine or margarine cheese, or sell, offer for sale, or put on the market those products without observing the prescriptions of this law.

In case of a repetition of the offense, imprisonment of six months and a fine of 1,500 marks shall be imposed.

Fines of from 50 to 150 marks shall be imposed upon those who prevent the inspectors from doing their duty and upon those who decline to give information or give wrong information.

To a fine of 150 marks or four months' imprisonment are those liable who neglect to send in the required declaration or, by negligence, give wrong information.

The verdicts may be published. The involved goods may be confiscated.

ENGLAND.

[Law of August 23, 1887.]

The law contains prescriptions practically identical to those of the above-mentioned laws. Fines of £20 for the first offense, 50 for the second, and 100 for the third and later offenses are imposed. No special prohibition against coloring margarine.

HOLLAND.

[Law of July 9, 1900.]

Prescriptions as to marking and labeling are similar to those mentioned above. Margarine and butter may be sold in the same room, but a partition must be erected and signs indicating where margarine is sold must be displayed. The word "margarine" shall appear visibly and indelibly on all packages containing the goods. Inspection is provided for, penalties for infractions are imposed (to what extent not stated in the document).

BELGIUM

[Law of May 4, 1900. Rules of October 31, 1900. Law of August 12, 1903. Royal decree of October 20, 1903.]

Mostly as above. Especially strict rules for the sale of margarine. Must not be sold in the same room as butter, neither in an adjoining room connected with it otherwise than by a public roadway. At markets margarine may only be sold at special places designated by the municipal authorities.

Inspection is provided for, and penalties are imposed as above.

SWEDEN AND NORWAY.

[Ordinance of October 11, 1889.]

Obsolete.

RUSSIA.

[Order of the Council of the Empire of April 8, 1891.]

Margarine may only be manufactured at places especially designated for that purpose. The establishments where margarine is prepared shall be subject to inspection. To color margarine so as to make it appear like butter is prohibited. Packages containing margarine must be distinctly labeled and state the name of the manufacturing firm. The factories and stores must be provided with signs indicating the kind of goods manufactured or sold. Importation of margarine from foreign countries is prohibited. Violations are punished by imprisonment of not more than one month or a fine of not more than 100 roubles.

AUSTRIA.

[Law of October 25, 1901. Rules of February 1, 1902.]

ART. 4. In order to make these products intended for the interior trade more recognizable, a substance, the color or the nature of which will have no bad effect on the quality of the goods, should be added.

Obligations and penalties are similar to those mentioned in connection with the laws of other countries.

DENMARK.

[Law of March 22, 1897.]

ART. 5. It is prohibited to manufacture, import, export, and sell margarine of a stronger yellow color than No. 9 on the scale of colors. See law of April 5, 1888.

The coloring of margarine for industrial purposes is not included in this prohibition.

Otherwise the Danish law is similar to those of the other countries. It mentions margarine, oleomargarine, and margarine cheese, the production and sale of which are all governed by the same regulations.

ITALY.

[Law of July 19, 1894.]

Labeling and marking as above. Places where margarine is sold must be provided with signs indicating the kind of goods sold. Does not mention separate stores. Coloring in order to imitate natural butter is prohibited. Penalties, fines of from 200 to 2,000 lire, besides confiscation of goods. For second offense, imprisonment of three months and loss of right to trade from ten days to six months.

CANADA.

[Law of June 2, 1886.]

Prohibits the manufacture and sale of margarine.

[Extracts from report of the Department of Agriculture, submitted for the record by Mr. Haugen.]

The following compilation of the substance of the dairy laws of the United States was published by the Agricultural Department under the seal of Secretary Wilson a year ago, and copies of the laws in full may be had from the Secretary of Agriculture:

ALABAMA—ANTICOLOR LAW.

[Approved February 18, 1895.]

No article which is in imitation of pure yellow butter, and is not made wholly from pure milk and cream, shall be manufactured, sold, or used in any public eating place, hospital, or penal institution, etc.; but oleomargarine, free from color or other ingredient to cause it to look like butter, and made in such manner as will advise the consumer of its real character, is permitted. It must be stamped with its name.

ARIZONA.

No dairy laws.

ARKANSAS—MUST BE LABELED.

[Approved April 2, 1885.]

Substitutes for butter, whether in wholesale or retail packages, shall be plainly labeled "Adulterated butter," "Oleomargarine," or such other names as shall properly describe them. In hotels, etc., dishes containing said articles must be plainly marked in same manner.

CALIFORNIA—ANTICOLOR LAW.

[Approved March 4, 1897.]

Imitation butter and cheese defined as any article not produced from pure milk or cream, salt, rennet, and harmless coloring matter, which is in semblance of butter or cheese and designed as a substitute for such. Shall not be colored to imitate butter or cheese, and must be in such form as will advise consumer of its real character. Every package must be plainly marked "Substitute for butter" or "Substitute for cheese" and accompanied by a statement giving name of manufacturer, ingredients, etc., a copy of which must be given to each purchaser, with verbal notice, at the time of sale, in connection with which words like "creamery," "dairy," etc., are prohibited. Patrons of eating places shall be notified if substitutes of butter or cheese are used. Prohibited in state charitable institutions.

COLORADO—ANTICOLOR LAW.

[Approved April 1, 1895.]

All articles not produced from pure milk or cream, in imitation of pure cheese or yellow butter, are prohibited; but oleomargarine and filled cheese are permitted if free from color or other ingredients to cause them to look like butter or cheese; they must be made in such form and sold in such manner as will advise the consumer of their real character. Cheese containing any foreign fats, oleaginous substances, rancid butter, etc., shall be branded "Imitation cheese."

CONNECTICUT—ANTICOLOR LAW.

[Public Acts 1895.]

Imitation butter, defined as any article resembling butter in appearance and not made wholly, salt and coloring matter excepted, from cow's milk, is prohibited; but oleomargarine or imitation butter, free from color or other ingredient to cause it to look like butter, and made in such form and sold in such manner as will advise consumer of its real character, is permitted. Words like "butter," "dairy," etc., shall not form a part of its name or appear on its package. Imitation butter shall be sold only in labeled packages, or registered places which display signs, and purchasers shall be informed orally of the character of the article at the time of sale. Use of imitation butter in public eating places, bakeries, etc., must be made known by signs.

DELAWARE—ANTICOLOR LAW.

[Passed May 8, 1895.]

The manufacture or sale of any article not produced from unadulterated milk or cream, which is in imitation of pure yellow butter or designed to take the place of pure cheese, is prohibited; but oleomargarine is permitted if in a distinct form, free from butter color and sold in such manner as to show its real character; it shall be plainly marked "Oleomargarine."

DISTRICT OF COLUMBIA—BRANDING LAW.

[Approved March 2, 1895.]

Substances in semblance of butter or cheese, not made exclusively of milk or cream, but with the addition of melted butter or any oil, shall be plainly branded on each package "Oleomargarine," and a label, similarly printed, must accompany each retail sale.

FLORIDA—MUST NOTIFY GUESTS.

[Approved February 17, 1881.]

The sale of any spurious preparation, purporting to be butter, is prohibited. Guests at hotels, etc., must be notified if oleomargarine or other spurious butter is used.

GEORGIA—ANTICOLOR LAW.

[Approved December 16, 1895.]

Imitation butter and cheese are defined as any article not produced from pure milk or cream—salt, rennet, and coloring matter excepted—in semblance of butter or cheese and designed to be used as a substitute for either. Shall not be colored to resemble butter or cheese. Every package must be plainly marked "Substitute for butter" or "Substitute for cheese," and each sale shall be accompanied by verbal notice and by a printed statement that the article is an imitation, the statement giving, also, the name of the producer. The use of these imitations in eating places, bakeries, etc., must be made known by signs.

IDAHO—BRANDING REQUIRED.

[Approved January 27, 1885.]

Brand required for sale of oleomargarine or butterine, imitation butter, or mixture imitating butter. These shall not be sold as butter.

ILLINOIS—ANTICOLOR LAW.

[Approved June 14, 1897.]

Imitation butter is defined as any article not produced from pure milk or cream—salt, rennet, and coloring matter excepted—in semblance of butter and designed to be used as a substitute for it. Shall not be colored to resemble butter. All packages must be plainly branded "Oleomargarine," "Butterine," "Substitute for butter," or "Imitation butter." Each sale shall be accompanied by notice to the purchaser that the substitute is imitation butter.

INDIANA—LABEL LAW.

Butter other than that made from pure milk when sold or used in hotels, etc., must be plainly labeled "Oleomargarine."

IOWA—ANTICOLOR LAW.

[Passed in 1893.]

Imitation butter or cheese is defined as an article not produced from pure milk or cream—salt, rennet, and coloring matter excepted—in semblance of butter or cheese and designed to be sold as a substitute for either of them. Shall not be colored to resemble butter or cheese. Every package shall be plainly marked "Substitute for butter" or "Substitute for cheese," and each sale shall be accompanied by a verbal notice and a printed statement that the article is an imitation, the statement giving, also, the address of the maker. The use of these imitations in hotels, bakeries, etc., must be made known by signs.

KANSAS.

No law.

KENTUCKY—ANTICOLOR LAW.

[Act of 1896.]

Oleomargarine, butterine, or kindred compound, made in such form and sold in such manner as will advise the customer of its real character, and free from color or other ingredient to cause it to look like butter, is permitted.

LOUISIANA—LABEL LAW.

[Approved July 6, 1888.]

Such substances as oleomargarine, butterine, bogus butter, etc., shall be plainly labeled to indicate their composition. They shall not be sold as butter.

MAINE—ANTICOLOR LAW.

[Approved March 27, 1895.]

Any article in imitation of yellow butter or cheese and not made exclusively of milk or cream is prohibited.

MARYLAND—ANTICOLOR LAW.

[Passed in 1888.]

The manufacture, sale, or use in public places of any article in imitation of and designed to take the place of pure butter or cheese, and not made wholly from milk or cream, is prohibited. Mixtures of any animal fats or animal or vegetable oils with milk, cream, or butter shall be uncolored, and marked with names and percentages of adulterants, and this information shall be given to purchasers.

MASSACHUSETTS—ANTICOLOR LAW.

[Approved June 11, 1891.]

An article made wholly or partly out of any fat or oil, etc., not from pure cream, and which is in imitation of yellow butter, is prohibited; but oleomargarine, free from color or other ingredient to cause it to look like butter, and made in such form and sold in such manner as will advise the consumer of its real character, is permitted. It shall not be sold as butter, nor shall words like "dairy," "creamery," etc., or the name of any breed of dairy cattle, be used in connection with it. All packages exposed for sale must be plainly marked "Oleomargarine," and labels similarly marked must accompany retail sales. Stores where it is sold and wagons used for delivery must display signs, and hotels, etc., using it must notify guests. Persons selling oleomargarine must be registered and conveyors licensed.

MICHIGAN—ANTICOLOR LAW.

[Approved April 15, 1897.]

Any article not made wholly from milk or cream, and containing melted butter, fats, or oils not produced from milk, and which is in imitation of pure butter, is prohibited; but oleomargarine, free from color or any ingredient to cause it to look like butter, and made in such form and sold in such manner as will advise the consumer of its real character is permitted; its sale as butter is prohibited; signs must be displayed where it is sold or used, and its original packages must be plainly marked "Oleomargarine," if the article contains suet or tallow, or "Butterine," if it contains lard; retail sales shall be made from a package so marked, and a label similarly printed and bearing the name of the manufacturer shall be delivered with each sale; shall not be used in any public institution. (N. B.—The above law was invalidated in 1897 by the Supreme Court because of the fact that the enacting clause was omitted when it passed the senate.)

MINNESOTA—ANTICOLOR LAW.

[Approved 1899.]

This law prohibits the sale of oleomargarine made in imitation of butter, and took the place of the pink law of 1891.

MISSISSIPPI LABEL LAW.

[Approved March 9, 1882.]

Packages of oleomargarine or similarly manufactured butters shall be plainly labeled with the correct name of their contents, and the product shall be sold by that name. A privilege tax of \$5 is imposed upon persons selling the articles named.

MISSOURI—ANTICOLOR LAW.

[Approved April 19, 1895.]

Imitation butter is defined as every article not produced wholly from pure milk or cream, made in semblance of and designed to be used as a substitute for pure butter; it shall not be sold as butter; shall not be colored to resemble butter unless it is to be sold outside the State; original packages shall be plainly stamped "Substitute for butter;" in hotels, etc., vessels in which it is served must be marked "Oleomargarine" or "Impure butter."

MONTANA—TAXED 10 CENTS A POUND.

[Penal code of 1895.]

Any article in semblance of butter or cheese, and not made wholly from milk or cream, must be plainly labeled "Oleomargarine" or "Imitation cheese," and a printed label bearing the same word or words must be delivered to the purchaser with retail sales. Places where these articles are sold or used must display signs, and information as to their character be given if requested. Dealers must pay a license of 10 cents a pound on each pound sold.

NEVADA—BRANDING LAW.

[Approved February 14, 1881.]

Any article in semblance of butter, but not made exclusively of milk or cream, or containing melted butter, shall be in packages marked "Oleomargarine."

NEBRASKA—ANTICOLOR LAW.

[Approved March 16, 1895.]

Imitation butter and cheese are defined as any article made in semblance of and designed to be used as a substitute for pure butter or cheese and not produced wholly from pure milk or cream, salt, rennet, and harmless coloring matter. These articles including any having melted butter added to them, shall not be colored to resemble butter or cheese; shall be plainly marked "Imitation butter" or "Imitation cheese;" verbal and printed information of the character of the articles, and address of the maker, shall be given at time of sale; signs shall be displayed in public eating places where used.

NEW HAMPSHIRE—ANTICOLOR LAW.

[Approved March 29, 1895.]

Any article not made wholly from unadulterated milk or cream, which is in imitation of pure yellow butter or cheese, is prohibited, unless in packages plainly marked "Adulterated butter," "Oleomargarine," or "Imitation cheese." A label printed with the words on the original package shall be delivered with each retail sale. Oleomargarine, free from color or ingredient to cause it to look like butter, and made in such form and sold in such manner as will advise the consumer of its real character, is permitted. Notice of the use of substitutes for butter in hotels, etc., shall be given to patrons.

NEW JERSEY—ANTICOLOR LAW.

[Approved March 22, 1895.]

Any article made wholly or partly out of any fat, oil, etc., not from milk or cream, artificially colored in imitation of pure yellow butter, is prohibited; but oleomargarine and imitation cheese are permitted, if free from artificial color and in the original package encircled by a wide black band bearing the name of the maker and having the name of the contents plainly branded on them with a hot iron. Retail sales shall be accompanied by a printed card on which the name of the substance and the address of the maker are plainly printed, and the customer shall be orally informed of the character of the article at the time of the sale.

NEW MEXICO.

No law.

NEW YORK—ANTICOLOR LAW.

[Approved April 10, 1893.]

The terms oleomargarine, butterine, imitation butter, or imitation cheese mean any article in the semblance of butter or cheese not the usual product of the dairy and not made exclusively from unadulterated milk, or having any oil, lard, melted butter, etc., as a component part. Imitation butter: The manufacture of oleomargarine or any article in imitation of butter wholly or partly from fats or oils not produced from milk, or the sale or the use in hotels, etc., of such articles, is prohibited. No article intended as an imitation of butter and containing oils, fats, etc., not from milk, or melted butter in any condition, shall be colored yellow.

NORTH CAROLINA—LABOR LAW.

[Ratified February 28, 1895.]

Oleomargarine and butterine are defined as articles manufactured in imitation of butter, and which are composed of no ingredient or ingredients in combination with butter. Original packages shall be labeled with chemical ingredients and their proportions.

NORTH DAKOTA—ANTICOLOR LAW.

[Laws of 1899.]

Law prohibits manufacture and sale of oleomargarine colored in semblance of butter.

OHIO—ANTICOLOR LAW.

[Approved May 16, 1894.]

Oleomargarine is defined as any substance not pure butter of not less than 80 per cent butter fat and made for use as butter. It is permitted if free from coloring matter or other ingredient to cause it to look like butter, and made in such form and sold in such manner as will advise the consumer of its real character.

OKLAHOMA.

No laws.

OREGON—ANTICOLOR LAW.

[Filed February 21, 1899.]

Forbids the manufacture and sale of oleomargarine colored in semblance of butter.

PENNSYLVANIA—ANTICOLOR LAW.

[Passed in 1899.]

Prohibits manufacture and sale of oleomargarine made in semblance of butter.

RHODE ISLAND—BRANDING LAW.

[Laws of 1882.]

Any article not made wholly from milk or cream, but containing any melted butter or animal oil or fat not the product of milk, shall be plainly marked "Oleomargarine," and a label similarly printed shall be delivered with all retail sales.

SOUTH CAROLINA—ANTICOLOR LAW.

[Approved March 9, 1896.]

Imitation butter and cheese are defined as every article not produced from pure milk or cream, with or without salt, rennet, and harmless coloring matter, which is in semblance of, and designed to be used as a substitute for butter or cheese; they shall not be colored to resemble butter or cheese; original packages shall be marked "Substitute for butter," or "Substitute for cheese;" shall not be sold as genuine butter or cheese, nor used in hotels, etc., unless signs are displayed.

SOUTH DAKOTA—ANTICOLOR LAW.

[Laws of 1897.]

Any article not made wholly from pure milk or cream, and in imitation of pure butter, is prohibited; but oleomargarine, colored pink and made in such form and sold in such manner as will advise the consumer of its real character, is permitted; notice of its use in public eating places must be given.

TENNESSEE—ANTICOLOR LAW.

[Act of 1895.]

Any article which is in imitation of yellow butter and not made exclusively from pure milk or cream is prohibited; but oleomargarine, free from color or other ingredient to cause it to look like butter, and made in such form and sold in such manner as will advise the consumer of its true character, and other imitations if uncolored and labeled with their correct names are permitted; wholesale packages shall be plainly labeled, and a label shall accompany retail sales.

TEXAS.

No law.

UTAH—ANTICOLOR LAW.

[Approved March 8, 1894.]

Any article in semblance of butter or cheese, and not made wholly from milk or cream, shall be plainly marked "Oleomargarine butter," or "Imitation cheese," and retail sales shall be made from packages so marked. Such articles shall not be colored to resemble butter or cheese.

VERMONT—PINK LAW.

[Laws of 1894.]

The manufacture of any article in imitation of butter or cheese which contains any animal fat, or animal or vegetable oils or acids not produced from pure milk or cream, is prohibited.

Imitation butter.—Imitation butter for use in public eating places, or for sale, shall be colored pink.

VIRGINIA—ANTICOLOR LAW.

[Approved January 29, 1896.]

The manufacture or sale of any article made wholly or partly from any fat or oil not produced from unadulterated milk or cream, which is in imitation of pure yellow butter, is prohibited; but oleomargarine, butterine, or kindred compound, made in such form and sold in such manner as will advise the consumer of its real character, and free from color or other ingredient to cause it to look like butter, is permitted. Signs, with the words "Imitation butter used here," shall be displayed in eating places, bakeries, etc., where the articles above named are used.

WASHINGTON—ANTICOLOR LAW.

[Approved March 11, 1896.]

No article which is in imitation of pure yellow butter and is not made wholly from pure milk or cream, with or without harmless coloring matter, shall be manufactured, sold, or used in any public eating house or eleemosynary or penal institution, etc.; but oleomargarine, free from color or other ingredient to make it look like butter, and made in such form and sold in such manner as will advise the consumer of its real character, is permitted.

WEST VIRGINIA—PINK LAW.

[Approved February 16, 1891.]

Any substance in semblance of butter or cheese, and not made wholly from pure milk or cream, and packages containing such substances, shall be plainly marked; printed statements explaining the character of the substance must be given to consumers.

Oleomargarine.—Oleomargarine and artificial and adulterated butter shall be colored pink.

WISCONSIN—ANTICOLOR LAW.

[Laws of 1896.]

Any article made partly or wholly out of any fat or oil, etc., not from pure milk or cream, and in imitation of yellow butter, is prohibited; but oleomargarine, free from color or other ingredient to make it look like butter, and made in such form and sold in such manner as will advise the consumer of its real character, is permitted. It shall not be sold as butter. All packages exposed for sale must be plainly marked "Oleomargarine." Signs must be displayed in selling places and on wagons. Hotels, etc., using it must notify guests. Use not permitted in charitable or penal institutions.

WYOMING.

No dairy laws.

STATES WITH ANTICOLOR LAWS.

The population of the States which have passed laws forbidding the sale of oleomargarine colored in semblance of butter, as shown by the census of 1890, is as follows:

	Population.		Population.
New York.....	5,997,853	South Carolina.....	1,151,149
Pennsylvania.....	5,228,014	Nebraska.....	1,068,910
Illinois.....	3,826,351	Maryland.....	1,042,390
Ohio.....	3,672,316	West Virginia.....	762,794
Missouri.....	2,679,194	Connecticut.....	746,253
Massachusetts.....	2,238,943	Maine.....	661,066
Michigan.....	2,093,899	Colorado.....	412,198
Iowa.....	1,911,896	New Hampshire.....	376,530
Kentucky.....	1,858,635	Washington.....	349,390
Georgia.....	1,837,353	Oregon.....	313,767
Tennessee.....	1,766,518	Vermont.....	332,442
Wisconsin.....	1,680,890	South Dakota.....	328,808
Virginia.....	1,655,980	Utah.....	207,905
Alabama.....	1,513,017	North Dakota.....	182,711
New Jersey.....	1,444,933	Delaware.....	168,498
Minnesota.....	1,301,826		
California.....	1,208,130	Total.....	50,117,440

The States and Territories which have not passed laws forbidding the sale of oleomargarine colored in semblance of butter are:

	Population.		Population.
Texas.....	2,235,523	New Mexico.....	153,593
Indiana.....	2,192,404	Montana.....	132,156
North Carolina.....	1,617,947	Idaho.....	84,385
Kansas.....	1,427,096	Oklahoma.....	61,834
Mississippi.....	1,289,700	Wyoming.....	60,706
Arkansas.....	1,128,179	Arizona.....	59,620
Louisiana.....	1,118,587	Nevada.....	45,761
Florida.....	321,422		
Rhode Island.....	345,506	Total.....	12,604,790
District of Columbia.....	230,392		

The table following exhibits the number of pounds sold in each State, as shown by Secretary Gage's report, the compiler hereof having divided the list into two classes; first, showing the amount sold in States where the sale of oleomargarine made in semblance of butter is absolutely prohibited, and, second, the States in which it was legal to sell such oleomargarine.

Yellow oleomargarine sold contrary to law in 1899.

	Number of dealers.	Quantity sold.		Number of dealers.	Quantity sold.
		<i>Pounds.</i>			<i>Pounds.</i>
Alabama.....	21	226,053	New York.....	14	222,788
California.....	5	74,923	North Dakota.....	18	7,710
Colorado.....	95	1,123,537	Ohio.....	1,005	8,830,909
Connecticut.....	5	124,255	Oregon.....	3	41,289
Delaware.....	48	40,475	Pennsylvania.....	717	11,433,341
Georgia.....	61	495,004	South Carolina.....	24	258,159
Illinois.....	2,020	18,638,921	South Dakota.....	4	55,432
Iowa.....	3	49,922	Tennessee.....	83	714,640
Kentucky.....	217	1,490,577	Utah.....	1	8,450
Maine.....	17	100,274	Vermont.....	1	2,990
Maryland.....	58	1,791,950	Virginia.....	121	1,150,400
Massachusetts.....	108	2,083,889	Washington.....	5	63,345
Minnesota.....	20	1,343,865	West Virginia.....	172	1,206,865
Missouri.....	231	3,133,313	Wisconsin.....	23	714,742
Nebraska.....	19	1,024,985	Total.....	5,492	62,825,582
New Hampshire.....	73	445,583			
New Jersey.....	296	5,838,976			

Oleomargarine sold in States where legal to color.

	Number of dealers.	Quantity sold.		Number of dealers.	Quantity sold.
		<i>Pounds.</i>			<i>Pounds.</i>
Alaska.....	5	18,080	Mississippi.....	17	104,622
Arkansas.....	35	300,389	Montana.....		446,022
Arizona.....	5	78,767	Nevada.....		625
District of Columbia.....	61	816,848	New Mexico.....	12	115,850
Florida.....	82	590,225	North Carolina.....	9	110,294
Idaho.....	3	58,224	Oklahoma.....	10	117,326
Indiana.....	306	3,923,228	Rhode Island.....	333	3,594,964
Indian Territory.....	21	152,278	Texas.....	162	1,518,264
Kansas.....	186	1,658,544	Wyoming.....	5	20,547
Louisiana.....	140	1,043,502	Total.....	1,501	16,860,142
Michigan.....	109	2,092,521			

Thus it will be seen that 62,825,582 of the total of 79,685,724 pounds reported shipped into the various States were sold in violation of the laws of the various States. There were but 16,860,142 pounds sold legally, and a very large percentage of that was unquestionably sold as butter.

AFTER RECESS.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Thursday, April 21, 1910.

The committee reconvened at 2 o'clock p. m., pursuant to the taking of the recess, Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. Mr. Flanders has requested me to say that the gentlemen who are to appear this afternoon would prefer to make their statements without being interrupted, and we will endeavor to oblige them in that respect.

Mr Flanders, will you introduce your next witness.

Mr. FLANDERS. Mr. Chairman and gentlemen of the committee, I now introduce, to address you, ex-Governor Batchelder, of New Hampshire, who is at the present time the master of the National Grange, and is representing here approximately a million people. He will give you their sentiments.

STATEMENT OF HON. N. J. BATCHELDER, MASTER OF THE NATIONAL GRANGE.

Mr. BATCHELDER. Mr. Chairman, I appear as the master of the National Grange, an organization of farmers having local branches in 30 States, with nearly 1,000,000 members, to express the unanimous desire of these farmers that no legislation be enacted by Congress that will in any way diminish the protection to the dairy interests of the country afforded by our present oleomargarine law. That law was placed on the statute book largely by the influence of the organized farmers represented by the National Grange, and they are satisfied after eight years' experience under it that it is wise legislation, and that if any amendments are made they should be in the direction of strengthening it so as to make its administration more effective.

I confess that it is difficult to consider seriously the arguments put forward by the oleomargarine interests in favor of amending this law so as to make it easier to sell their products as a substitute for butter. They are loud in their protestations that they do not wish to deceive the public by selling an article colored so as to resemble butter, but at the same time they were seeking the reduction of the tax on colored oleomargarine to 2 cents per pound. If they are honest in their statement that they wish to sell their product to the consumer for exactly what it is, why do they object to the 10-cent tax on the colored article? What difference does it make, Mr. Chairman, whether the tax is 10, 20, or 50 cents per pound on a compound colored to be sold as butter, if nobody wants to make such an article?

The truth is that the oleo interests want to color their imitation butter so that they can sell it as the genuine product of our dairies, and it is for this reason alone that they ask the reduction of the tax from 10 to 2 cents. They are not honest in their statements, sent broadcast throughout the country, to the effect that they are willing that more stringent regulations governing the labeling of their product should be adopted, provided they are allowed to color it. The whole object of coloring is to deceive the consumer into believing that he is buying butter, and if they are allowed to sell a colored article with a tax of only 2 cents per pound, no system of branding or labeling that could be devised would prevent the perpetration of gigantic frauds on the people.

It is claimed that oleomargarine is pure and wholesome, and is in every way a healthful food product. It is also claimed that many people prefer it to inferior grades of butter, and that they should be allowed to buy it freely so long as they are satisfied with it. I answer that the farmers have no objection to the sale of this product so long as it is sold as oleomargarine and not as butter. The public has the right, recognized as the basis of our pure-food laws, to know what it is getting. If people like oleomargarine they have a right to buy it and eat it. But if they want butter, it is the duty of our state and federal governments to see to it that when they buy butter they get butter.

It is urged that the tax on colored oleomargarine should be reduced because the consumers have become so accustomed to the color of butter that they will not buy the uncolored product. This is another way of saying that the people will not buy oleomargarine if they know what it is. It surely will not be pretended that any person

who believes that a compound of cotton-seed oil and oleo-stearin is as desirable a food product as butter will hesitate to use it merely because it is white instead of yellow. Large numbers of the people coming from foreign countries prefer white butter, and no one who really wants to use oleomargarine will refuse to buy it if uncolored. This does not apply, of course, to such persons as proprietors of cheap hotels and restaurants, who wish to deceive their patrons by giving them a substitute for butter, but I hardly think the wishes of these people should have any weight with your honorable committee.

The oleomargarine act of May 9, 1902, had two purposes. The first was to protect the public against fraud through the sale of mixtures of various kinds colored to resemble butter. The second was to protect the farmers of the country from the unfair competition of manufacturers of a spurious or imitation butter which can be sold at a much lower price than the genuine product. The people of the entire country, without regard to their calling, demand that the legislation to prevent the sale of colored oleomargarine as butter must be maintained. The farmers demand that the law which they were instrumental in having enacted by Congress shall not be weakened in the slightest degree. This is a matter of the utmost importance to the agricultural interests of the country, and is being closely watched by millions of farmers, who will hold responsible any legislator who aids in breaking down the protection given by the present law to the consumers on the one hand, and the producer of genuine butter on the other. Thank you.

Mr. FLANDERS. Mr. Chairman, I will next introduce Mr. J. J. Glover, of Wisconsin, who will discuss before the committee for a few moments the subject of cotton-seed oil and its products. Mr. Glover is secretary of the Wisconsin Dairyman's Association and is also associate editor of Hoard's Dairyman.

STATEMENT OF MR. J. J. GLOVER, SECRETARY OF THE WISCONSIN DAIRYMAN'S ASSOCIATION.

Mr. GLOVER. I would like to say in the beginning, Mr. Chairman, that I do not pose as an expert in any sense of the word upon cotton-seed oil, upon growing it, or the by-products. Moreover, I would ask the chairman to permit me to make my statement, which will take me less than five minutes, and then I will try to answer any questions which I am prepared for on this subject.

I have gathered the statistics which I have here from the agricultural report of 1908 and from the Census of 1900.

It is the belief of many interested in the cotton industry that the amount of cotton-seed oil used in the manufacture of oleomargarine is of vital benefit to the cotton grower. It is my purpose to explain how much is received for cotton-seed oil which is used in the manufacture of oleomargarine, how much it amounts to for each acre of cotton grown, the amount received for the cotton-seed oil which goes into the oleomargarine as compared with the amount received for butter.

My second proposition is this: The relation of cotton-seed meal to the fertility of the soil; how it can increase the cotton crop.

In 1908 the total value of cotton-seed oil used in the manufacture of oleomargarine was approximately a half a million dollars. These

figures are based upon the supposition that 11.2 per cent of cotton-seed oil is used in oleo, on the average, and this factor was obtained from the census report of 1900. In other words, it is the return of $1\frac{1}{2}$ cents per acre on all the land that is sown in cotton or grows cotton. Surely this is not enough to cause any serious alarm to those interested in growing cotton. According to the census of 1900—and I will be brief in reading these statistics, and by the way, I will not attempt to read them all—Alabama produced 19,139,321 pounds of butter. The value of that at 27 cents a pound, for 1908, amounted to \$5,167,616. Now, the amount of cotton-seed oil that was sold, apportioning it according to the bales of cotton produced in the South, amounted to \$50,758. In other words, for every dollar's worth of cotton-seed oil that is sold in Alabama for the manufacture of oleomargarine, \$102 worth of butter is made.

Mr. McCARTHY. Mr. Chairman, may I interrupt to ask definitely, right at that point—

The CHAIRMAN. The gentleman prefers to make his statement without being interrupted. Just make a note of your question and ask it when he has finished.

Mr. GLOVER. Now, that is one State. Now, we might take Arkansas. I will not read the amount, except to say this, that for every \$1 worth of cotton-seed oil sold, \$151 worth of butter was made.

Mr. BURLESON. I would like you to state the number of pounds of butter made in Arkansas.

Mr. GLOVER. The number of pounds of butter made in Arkansas, according to the census of 1900—and that is conservative, because the dairy industry has grown there—was 21,753,833.

Mr. HAUGEN. Will you leave that table so that it may be printed in the record?

Mr. GLOVER. Yes; you can have this for the committee. Now, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, in other words, a total of 11 States, which are the principal cotton-growing States—there are a few others which do not grow very much—produced \$53,415,795 worth of butter in 1908, and they sold \$496,571 worth of cotton-seed oil, which went into the manufacture of oleomargarine; or, for each dollar's worth of cotton-seed oil that was sold, \$107 worth of butter was made in those 11 States.

Mr. BURLESON. How many pounds were sold?

Mr. GLOVER. The number of pounds, according to the census of 1900—remember, this price is based upon 1908, and the amount upon the census of 1900—

Mr. BURLESON. Yes.

Mr. GLOVER (continuing). Was 197,836,281 pounds in the 11 States.

Mr. BURLESON. That is the number of pounds of butter sold?

Mr. GLOVER. The number of pounds made.

Mr. BURLESON. Oh.

Mr. GLOVER. Produced. This is the amount of butter produced, according to the census. That is what they report.

Mr. HAUGEN. Is that the total product of cotton-seed oil?

Mr. GLOVER. No.

Mr. HAUGEN. It is just the amount sold for the manufacture of oleomargarine?

Mr. GLOVER. Yes. Now, there is a second proposition. It is common knowledge that we are all dependent directly or indirectly upon the soil. The soil must be productive or life is impossible; it must come to an end. From the Agricultural Year Book of 1908 I have gathered figures which show that a trifle more than one-third of a bale of cotton was grown to the acre throughout the cotton-growing area of the South. It is comparatively easy, through the use of manure, to increase the yield to 1 to 1½ bales per acre. The dairy cow furnishes a market for cotton-seed meal. I might say that at the present time the South is producing many tons of cotton-seed meal, and they are applying it directly to their land to make it grow cotton. It can be fed to the cow, and will pay a handsome profit at \$30 a ton, and when it comes out it is worth, at the present price, as a fertilizer in the neighborhood of \$20 a ton for fertilizing purposes. Cotton-seed meal is such a valuable food product for dairy cows that it is used throughout the North and in foreign countries, and it sells in the North for from \$33 to \$35 and up to \$40 a ton, depending upon location.

Now, the point I am trying to make in this is plain, that the South reaps much less than a half a million dollars for her product of cotton-seed oil that enters into the manufacture of oleomargarine, which is a mere pittance compared to what the South could get out of her dairy industry and out of her cotton crop provided her land was up to the maximum production, and what it is capable of doing provided the land is properly fed. Your cotton-seed meal is an exceptionally valuable product for your dairy cow and for the building up of your farm lands.

Mr. McCARTHY. Right on the last point the speaker made I would like to ask him a question, not because it is particularly pertinent to this inquiry, but so long as he made the statement I would like to ask him as to whether he thinks the oil contents in this meal has any fertilizing value or not?

Mr. GLOVER. The oil?

Mr. McCARTHY. Yes.

Mr. GLOVER. Not so far as I know.

Mr. McCARTHY. Then why should it not be taken out and sold for commercial purposes?

Mr. GLOVER. It is sold for commercial purposes.

Mr. McCARTHY. You seemed to object to it; that is why I asked the question.

Mr. GLOVER. You misunderstood me.

The CHAIRMAN. Are there any further questions?

Mr. BURLESON. What relation is there between the amount of cotton-seed oil sold in a State and the amount of butter made in that State?

Mr. GLOVER. That is taken upon the averages.

Mr. BURLESON. I do not question your figures at all. You took your figures from the last census?

Mr. GLOVER. Yes.

Mr. BURLESON. Showing the number of pounds of butter made in Arkansas?

Mr. GLOVER. Yes.

Mr. BURLESON. That was butter made on the farms and consumed on the farms by the people making it, and made and consumed right within the State, not butter offered for sale; or it included all butter?

Mr. GLOVER. I presume so; it was butter that was made within the State. What became of it, of course, I do not know.

Mr. BURLESON. You institute no comparison between the amount of cotton-seed oil sold and the amount of butter sold?

Mr. GLOVER. My only comparison was of the amount of cotton-seed oil that entered into the manufacture of oleomargarine.

Mr. BURLESON. You think that you want to give them good advice down there—to put their cotton-seed meal on the land for fertilizing purposes?

Mr. GLOVER. I want to run it through the cow first.

Mr. BURLESON. Now, suppose the land does not need any fertilizing?

Mr. GLOVER. We have not found that land yet.

Mr. BURLESON. I am 46 years old, and I live in the section of the State where, before the advent of the boll weevil, we had the largest cotton-producing counties in the world, and I never saw a pound of fertilizer used in my life.

Mr. GLOVER. No; but if you live fifty or sixty years more, you can not make that statement, according to science.

Mr. BURLESON. I own a farm that has been in cultivation fifty-four years, since 1856, and it produces, per acre, now as much cotton as it did the first year it was put in cultivation. Would you go and waste a valuable product in an effort to increase the fertility of the soil that is just as fertile as when it was virgin soil?

Mr. GLOVER. If you will permit me, Mr. Chairman, I will answer that question in this way. I know nothing about Mr. Burleson's soil, but we know that the Southern States in the year 1908 grew a trifle more than one-third of a bale of cotton per acre. We also know that it is a very conservative statement that when barnyard manure, cow manure, if you please, is applied to the land, you can grow from a bale to a bale and a half per acre. Men have told me you could grow two bales, but I cut that down one-half, in order to be within the limits of good, practical agriculture.

Mr. BURLESON. If a man was trying to secure barnyard manure to put on a 3,000 acre farm, he would have some little difficulty in procuring it, would he not?

Mr. GLOVER. You can not farm, Mr. Burleson, without feeding the soil, sooner or later. The history of China and every country in the world shows that.

Mr. BURLESON. Is that the relation you wish to show?

Mr. GLOVER. That is the point I wish to show.

The CHAIRMAN. I understand your point to be, in brief, that you think the cotton-seed meal can be fed to cows, and the farmers reap more profit from it than by selling the small amount of oil that they sell to the oleomargarine manufacturers?

Mr. GLOVER. They can sell the oil just the same, but the point I wish to make is this, that they should not let this \$496,000 interfere with the big money that they are getting out of their dairy products.

The CHAIRMAN. Yes; that is clear.

Mr. GLOVER. That is the point I want to make.

Mr. LEVER. Let me see if that is clear. Do you advocate the feeding of the raw cotton seed in the South to cattle or the meal only after the oil has been extracted?

Mr. GLOVER. The cotton-seed meal after the oil has been extracted.

Mr. LEVER. Yes. Now let me ask you this other question; you seem to have the figures there. What industry is the chief consumer of the cotton-seed oil?

Mr. GLOVER. I do not know what.

Mr. LEVER. Is it not a fact that oleomargarine is a large consumer of cotton-seed oil?

Mr. GLOVER. I presume that it is.

Mr. LEVER. Do you know whether or not it is the largest consumer of cotton-seed oil?

Mr. GLOVER. I do not know that.

Mr. LEVER. You do not know that. Assuming that it is the largest consumer of cotton-seed oil, your proposition is that we should feed our meal to our cattle and enrich our soil, and I agree with you on that.

Mr. GLOVER. Yes.

Mr. LEVER. And then take the oil which is now being sold to the oleomargarine manufacturers and dump it in the river?

Mr. GLOVER. No; I should continue to sell it to the oleo people. I have no objection to that, but I do not want to see you stand in the way of this larger proposition, if it becomes necessary.

Mr. LEVER. But there is not any conflict between the two, is there?

Mr. GLOVER. Between the two? One of the reasons why we understand that you are opposed, perhaps, to not coloring oleomargarine, is because it will do away with this market for your cotton-seed oil, which I want to say is only a mere pittance compared to what you can get out of your dairy industry.

Mr. LEVER. But if you shut off our sale of cotton-seed oil to the oleomargarine factories, we have got to find an outlet for it somewhere else.

Mr. GLOVER. If that was entirely shut off, what I want to show is that you would only lose a half a million dollars.

Mr. LEVER. Yes; but that will be a half a million lost which we now receive.

Mr. GLOVER. Yes; but you have a bigger proposition, if you have to sacrifice this.

Mr. LEVER. But can we not make both go along together?

Mr. GLOVER. I hope so.

Mr. LEVER. Do you not think we can do it?

Mr. GLOVER. Yes.

Mr. LEVER. Very well; that is all.

Mr. BURLESON. Are you in favor of a tax on oleomargarine or are you against it?

Mr. GLOVER. I am in favor of anything that will make oleomargarine stand upon its own legs.

Mr. BURLESON. What do you mean by that?

Mr. GLOVER. To sell for just what it is, in its own color.

Mr. BURLESON. Do you insist that it is necessary to put a 10-cent tax upon colored oleomargarine in order to make it stand upon its own legs?

Mr. GLOVER. No.

Mr. BURLESON. Then you are indifferent about whether this tax is continued if we can make it stand upon its own legs?

Mr. GLOVER. Yes.

Mr. BURLESON. If a wholesome, pure, nutritious food product can be made to look like butter, smell like butter, and taste like butter, that is cheaper, you are not opposed to the people being given the benefit of it in these piping days of high cost of living, are you?

Mr. GLOVER. Provided it is sold for what it is.

Mr. BURLESON. Provided it is sold for what it is. So that if this committee can devise a plan by which they can minimize the fraudulent sale of oleomargarine, reduce it to the lowest possible level, without this tax, you would heartily approve it, would you not?

Mr. GLOVER. If you will go a little further; its sale and its use, I would say.

Mr. BURLESON. Its sale and its use?

Mr. GLOVER. Its sale and its use; I would say yes.

Mr. BURLESON. Its sale and its use.

Mr. LEVER. Are you satisfied with the present law?

Mr. GLOVER. Until we can get a better one.

Mr. LEVER. Until we can get a better one. You are satisfied with the law under which the violations have increased at least 100 per cent during the last year? Are you willing to make that statement?

Mr. GLOVER. My answer did not say that I was in favor of the law in that respect.

Mr. LEVER. You would not be willing to tax one legitimate industry or one product to enhance the value of another?

Mr. GLOVER. No.

Mr. LEVER. No; you would not be willing to do that.

Mr. BURLESON. That is all.

Mr. LEVER. I think that is all.

The CHAIRMAN. I would like to ask just one question. In your judgment, is the 10-cent tax an advantage, looking at it from the standpoint of the enforcement of the law, over what a 2-cent tax would be on the colored oleomargarine?

Mr. GLOVER. That is a pretty hard question to answer.

The CHAIRMAN. I realize that it is a question of opinion.

Mr. GLOVER. It is a matter of opinion.

The CHAIRMAN. But it was stated here yesterday, and I think with pretty general acquiescence, that the advantage of 9½ cents which a man would possess if he could avoid the payment of the 10-cent tax offered an extraordinary inducement to a man to avoid that payment, and through that extraordinary inducement a great many violations of the law were committed, and I was anxious to have your opinion as to whether, if the inducement was not so great, if there was a difference of only 1½ cents, men would take so much trouble to evade the law as they do now when the advantage is 9½ cents.

Mr. GLOVER. Answering it on the difference of temptation, I should answer it in the affirmative—that there would be less temptation to evade the law at 2 cents.

The CHAIRMAN. Then, in your judgment, the present law would not be weakened if the rate of tax on the colored oleomargarine was reduced from 10 cents to 2 cents?

Mr. GLOVER. I am of the opinion that it would be.

The CHAIRMAN. Why would it be?

Mr. GLOVER. Because the present law, as I understand, uses the words "artificial coloration."

The CHAIRMAN. Leave the wording of the law exactly as it is; make no change in the present law whatever, except in the figures?

Mr. GLOVER. That is what I mean. If you will just make a change in the figures and permit those words "artificial coloration;" or, unless you could substitute for them "in any shade of yellow in semblance of butter"—yellow butter.

The CHAIRMAN. I am trying to get your opinion, if you care to express it directly, on this simple proposition, whether the present law would be weakened if no change were made in it except to substitute 2 for 10?

Mr. GLOVER. I think it would be weakened in that case.

The CHAIRMAN. Can you tell us why you think it would be weakened? I ask you that because you have just stated that in your judgment if there was an advantage only of $1\frac{1}{2}$ cents to be gained by evading the law there would not, perhaps, be so much temptation as there would be if there was an advantage of $9\frac{1}{2}$ cents.

Mr. GLOVER. I answered you, from the point of temptation; by reducing the tax there would not be that temptation. Now, as I understand, you ask me with reference to this particular law?

The CHAIRMAN. Yes.

Mr. GLOVER. I can not see how it would change the situation very much, by simply reducing from 10 to 2. That is my opinion.

Mr. HAUGEN. That is putting it back to what it was before the enactment of the present law.

The CHAIRMAN. No; not exactly as it was, because the old law provided for a 2-cent tax on oleomargarine, whether colored or uncolored, and I was asking this witness whether he thought that the present law would be weakened if the tax were reduced on the colored oleomargarine from 10 cents to 2 cents.

Mr. GLOVER. It is a matter of opinion, Mr. Chairman, anyway.

The CHAIRMAN. We realize that, of course. Are there any further questions?

Mr. LEVER. Let me ask the witness just one other question. Do you think the present law would be strengthened if we should add to it some such provision as this, which I read from one of the bills before the committee:

SEC. 7. That all margarine, butter, renovated butter, and adulterated butter, manufactured and prepared for interstate or foreign commerce, shall be put up singly by the manufacturers thereof in bricks, prints, or rolls of one-half of one pound, one, two, and three pounds, and in no larger or smaller subdivisions, which bricks, prints, or rolls shall be pressed by the manufacturer thereof in a mold or form in such manner as to conspicuously indent the margarine, butter, renovated butter, or adulterated butter to a depth of not less than one-eighth of one inch on the surface thereof with the word "Margarine," "Butter," "Renovated butter," or "Adulterated butter," respectively, in letters of such size and character as may be prescribed by the Secretary of Agriculture. Each and every such brick, print, or roll may be first wrapped or inclosed in thin paper or cloth wrapper, marked or branded as herein prescribed, and shall then be wrapped or inclosed in paper or other wrapper with the word "Margarine," "Butter," "Renovated butter," or "Adulterated butter," respectively, printed or branded thereon in distinct letters, and such wrappers shall also bear the name of the manufacturer, together with the caution label required by this act; and these bricks, prints, or rolls shall then be packed by the manufacturer thereof in wooden or other packages, each containing not less than ten pounds, which shall likewise be marked or branded as the Secretary of Agriculture shall prescribe; and the label or labels designated by the Secretary of Agriculture, on which is inscribed the words "Inspected and passed," shall be so affixed to the one-half of one pound, one, two, and three pound bricks, prints, or rolls as to seal the wrappers thereof, so that such wrappers or covering may not be opened without destroying the inspection label

affixed thereto; and all sales made by the manufacturers of margarine, butter, renovated butter, and adulterated butter, and wholesale dealers in margarine, butter, renovated butter, and adulterated butter, shall be in the original manufacturer's packages, each containing the bricks, prints, or rolls put up by the manufacturer as hereinbefore prescribed, in quantities of not less than ten pounds.

Do you think such a provision would strengthen this law at all?

Mr. GLOVER. I do not.

Mr. LEVER. Why not?

Mr. GLOVER. Permit me to go back a little. Nearly ten years ago I was connected with the dairy and food commission of Minnesota. It was a common practice at that time for what you might term "moonshiners" in oleomargarine to go to the back door and call upon the housewife and state that they had just started a new creamery out in the country, and they were selling their product direct to the consumers. It was colored yellow, then, in the semblance of yellow butter, and invariably the price was 2 to 3 cents below the retail price of butter. The law in Minnesota compelled them to wrap it and stamp it and let the consumers know what they were getting. Inspectors would follow these wagons.

Mr. LEVER. Did they indent it?

Mr. GLOVER. No; it was not indented. The inspectors would follow these wagons, and as they delivered the package to the lady they would slip the package off. Now, I am firmly of the opinion that even if indented they would find some means to remove that indent as they handed the package to her, because in that time they could easily remove the package, so that she thought she was getting fresh creamery butter from the country.

The CHAIRMAN. But this bill, as Mr. Lever has put it, compels the sale in the original package as received from the wholesaler. He would not be allowed again to remove the package.

Mr. GLOVER. But they did remove it in Minnesota. They would carry it clear to the door and deliver it, and break the seal and hand it to her, unless there was a man right there to catch them.

The CHAIRMAN. They violated the law, then?

Mr. GLOVER. Yes; they violated the law.

Mr. LEVER. Do you think there would be any serious violation of such a law as I have outlined here if we put the penalty so severe as to caution a man very much against such violation?

Mr. GLOVER. I can not answer that, because, you know, men take long chances.

Mr. LEVER. It is a matter of opinion. Of course, your whole statement is a matter of opinion. What is your opinion?

Mr. GLOVER. I think it would lessen it.

Mr. LEVER. It would lessen it?

Mr. GLOVER. I think the passage of all the laws would lessen the violations.

Mr. LEVER. As a matter of fact, do you not think, if we put oleomargarine under the meat-inspection law, with the penalties of the meat-inspection law, we can very greatly reduce the frauds that are now being committed under the present law?

Mr. GLOVER. I believe it would help matters. I believe it would. That is only an opinion, maybe.

Mr. LEVER. We want your opinion; it will be worth something to us. One other question, and I am through.

Mr. BURLERSON. I understood him to say that he was in favor of putting oleomargarine under the meat-inspection law.

Mr. LEVER. He said he thought it would decrease the violations of the law, and that would carry with it the inference that he would be in favor of its being put under the meat-inspection law.

Mr. GLOVER. Not necessarily. I do not know about the meat-inspection law. That is merely a matter of opinion.

Mr. HAUGEN. Are you familiar with the provisions of the meat-inspection law?

Mr. GLOVER. No, sir; I am not.

Mr. HAUGEN. The gentleman referred to some penalties that did not exist; that is the reason I asked you the question.

Mr. LEVER. I will state, for the gentleman's benefit, that the penalties of the meat-inspection law are exceedingly severe.

Mr. HAUGEN. Where, in the meat-inspection law, are those severe penalties?

Mr. LEVER. I will indicate them.

Mr. HAUGEN. I wish you would do it. I would like to see that in the record.

Mr. LEVER. Would you have any objection to putting butter products under the meat-inspection law?

Mr. GLOVER. No.

Mr. LEVER. You would not have any objection to that at all?

Mr. GLOVER. No.

Mr. LEVER. For the prevention of the spread of tuberculosis and typhoid, and so forth?

Mr. GLOVER. I am in favor of anything that will make butter or any other food product more wholesome.

Mr. LEVER. And that will have the effect of protecting the public?

Mr. GLOVER. Protecting the public; yes, sir.

The CHAIRMAN. I suppose you know that a provision substantially the same as that just read by Mr. Lever is included in the McHenry bill, which has the indorsement of the dairy interests?

Mr. GLOVER. I have not read the McHenry bill.

The CHAIRMAN. It has the same provision.

Mr. MCCARTHY. The gentleman said that he was associate editor of Hoard's Dairyman.

Mr. GLOVER. Yes.

Mr. MCCARTHY. Of what class are the readers of that paper?

Mr. GLOVER. The dairy producers throughout the country.

Mr. MCCARTHY. The dairy producers?

Mr. GLOVER. Yes; and farmers.

Mr. MCCARTHY. Do you know Mr. C. L. Peck, of Pennsylvania?

Mr. GLOVER. By letter; by correspondence.

Mr. MCCARTHY. He is one of your correspondents?

Mr. GLOVER. Not a regular one.

Mr. MCCARTHY. He is occasional?

Mr. GLOVER. He has sent us some material, I think, but very little.

Mr. MCCARTHY. You do not know him personally; but from the fact that you print the correspondence from him, you would think that he was a reliable man, would you?

Mr. GLOVER. We do not judge a man by the correspondence he sends; we judge the correspondence, the things that he states.

Mr. MCCARTHY. You publish the things from that correspondence which you think meet with the approval of your editorial policy?

Mr. GLOVER. Yes, and that will be of benefit to the dairy industry.

Mr. BURLERSON. And that are true?

Mr. GLOVER. Yes; and are true. We do not stop to ask what a man's character is in every case.

Mr. McCARTHY. I presume you remember, then, that in your issue of February 11, 1910, in your correspondence from Mr. C. L. Peck, of Pennsylvania, there was this statement:

DAIRYMEN SELL THEIR BUTTER AND PURCHASE OLEO FOR TABLE USE.

[Hoard's Dairyman.]

A forcible object lesson to parsimonious dairymen has occurred in northern Pennsylvania and southern New York. I report it to you as a warning to others of the class in different parts of the country. As the local prices of butter began to advance in the early fall to above 30 cents per pound, the dairymen in some districts conceived the idea of selling their butter at the prevailing high prices, and substituting oleo on their own tables. They began to boast of the profit, and the number began to increase. Each one seemed to think that what little he used would make no difference in the general result. At first they clubbed together and ordered direct from wholesale houses and the oleo for a dozen of them would come in one package and be divided after it arrived to the address of some one of the club. Some of them began to apply to local dealers, and the applications were sufficient in amounts that local dealers took out licenses and began selling. The local village consumers of butter began to reason that if oleo was preferable for the farmer it was good enough for them.

The result has been that in less than three months the local prices of butter dropped from 35 to 25 to 28 cents per pound.

Mr. Chairman, I would like to have this inserted in the record.

Mr. BURLERSON. Where does this come from?

Mr. McCARTHY. From Hoard's Dairyman, of February 11, 1910. If, on the exposition there shown in your own paper, oleo is good enough for your readers, and it causes a reduction in the price of butter, do you not think that all the consumers of the country should have the advantage of securing this article without the restrictions placed upon it?

Mr. GLOVER. I never made any denial that they should have the right to have oleomargarine, but what we are insisting upon is that oleomargarine should sell as oleomargarine and not as butter.

Mr. McCARTHY. We are doing the same thing from our side of the house.

Mr. GLOVER. Well, we are glad to hear that.

Mr. McCARTHY. But we are trying to arrive at some way of doing that without using the taxing power of the Government. I would like to ask you if you have any objection to make along that line, as to how that can be done, without using the taxing power of the Government?

Mr. GLOVER. No; I have not any such suggestion.

Mr. LEVER. Is there much moonshining in oleomargarine?

Mr. GLOVER. According to the papers, there has been considerable.

Mr. LEVER. There has been considerable?

Mr. GLOVER. Personally, now, I do not know anything about it.

Mr. LEVER. You do not know whether there is any way of preventing that, either?

Mr. GLOVER. I presume there is a way of preventing it—minimizing it, anyway.

Mr. LEVER. What is your suggestion? Give us your idea of that. The committee is trying to get at the truth here.

Mr. GLOVER. I would prevent the coloring of oleomargarine in the semblance of yellow butter. It should always be white. I would attach a severe penalty to anyone that violated it. I would have it put up in original packages, plainly stamped "oleomargarine."

Mr. LEVER. Your experience in Minnesota has taught you, I believe, that that original-package feature did not do your law much good?

Mr. GLOVER. It helped; it will help. You asked whether it would do away with it. I was just simply mentioning a fact, that is all. It was a fact, and one thing that was considered.

The following table was submitted by Mr. Glover:

RELATION BETWEEN THE COTTON GROWERS OF THE UNITED STATES AND THE OLEOMARGARINE INDUSTRY; ALSO A COMPARISON WITH THE BUTTER INDUSTRY.

The following information sets forth the benefits the cotton growers of the United States derive from the sale of cotton-seed oil used in the manufacture of oleomargarine in 1908; also the value of butter produced in 1900. It will be observed that the amount of cotton-seed oil used in making oleomargarine is exceedingly small in comparison with the total production of that product, and also small when compared with the value of the butter production in the same section:

Cotton grown and harvested in the United States in 1908 was produced from.....acres..	32,444,000
Bales produced (500 pounds gross) (Agricultural Department Yearbook, 1908) (excluding linters).....	13,241,799
Value of cotton (lint) in 1908 (Agricultural Department Yearbook, 1908).....	\$561,236,282
Average yield of lint per acre (Agricultural Department Yearbook, 1908).....pounds..	194.9
Price per pound of lint (Agricultural Department Yearbook, 1908).....	\$0.087
Total amount of cotton seed produced in 1908 (Bulletin No. 100, Bureau of Census).....tons..	5,903,538
Average value per ton of cotton seed for the year ending June 30, 1909 (Bureau of Statistics letter).....	\$15.65
Total value of cotton seed produced in 1908 at above average.....	\$92,416,128
Total oleomargarine manufactured in 1908 (Report Bureau of Internal Revenue).....pounds..	81,528,680
Total amount of cotton-seed oil used in the manufacture of oleomargarine in 1908 (at 11.2 per cent of total) ^a.....pounds..	9,130,867
Average price of cotton-seed oil 1908 (average weekly market value f. o. b. mills, Oil, Fatist and Drug Reporter) ^b	\$0.0547
Total value of cotton-seed oil used in the manufacture of oleomargarine in 1908 at above rate.....	\$499,458.42
Farmers' receipts per bale of cotton (lint) for cotton-seed oil used in making oleomargarine, 1908.....	\$0.03771833
Per cent of the total value of the cotton crop used in making oleomargarine, 1908 (including linters and seed).....per cent..	0.07
Farmers' receipts per acre of cotton for cotton-seed oil used in the manufacture of oleomargarine, 1908.....	\$0.015394

	Alabama.	Arkansas.	Florida.	Georgia.	Louisiana.	Mississippi.
Dairy cows on farms (1900 census) ^c.....number..	279,263	312,577	78,830	276,024	184,815	290,318
Pounds of butter made (1900 census).....	19,139,321	21,758,833	1,386,445	15,160,454	4,918,229	18,929,761
Value of butter, at 27 cents (price 1908).....	\$5,167,616	\$5,873,535	\$374,340	\$4,093,323	\$1,327,922	\$5,111,086
Bales of cotton produced, 1908.....	1,345,713	1,032,920	62,089	1,931,179	470,136	1,655,945
Value of cotton-seed oil used in the manufacture of oleomargarine, proportioned according to number of bales (500 pounds gross) of cotton produced.....	\$50,758	\$38,960	\$2,342	\$72,841	\$17,733	\$62,459
Relative value of butter as compared with the cotton-seed oil used in making oleomargarine.....	102 to 1	151 to 1	160 to 1	56 to 1	75 to 1	82 to 1

^a The figure 11.2 per cent was obtained from the census of 1900; more recent information has not been published.

^b Market prices f. o. b. mills for prime summer yellow cotton-seed oil.

^c In the eleven principal cotton States of this country the value of the butter made is 107 times as great as the receipts for the cotton-seed oil which is used in the oleomargarine industry. This figure is conservative inasmuch as the butter production of 1900 has been compared with the cotton crop of 1908, owing to the lack of accurate butter statistics later than 1900. Since that date the dairy industry has developed.

	North Carolina.	Oklahoma. ^a	South Carolina.	Tennessee.	Texas.	Total of 11 States.
Dairy cows on farms (1900 census) ^b	233,178	276,539	126,684	321,676	861,023	3,249,627
Pounds of butter made (1900 census).....	16,913,802	13,940,274	8,150,437	29,299,519	48,244,206	197,836,281
Value of butter, at 27 cents (price 1908).....	\$4,566,726	\$3,763,873	\$2,200,618	\$7,910,870	\$13,025,936	\$53,415,795
Bales of cotton produced, 1908.....	646,958	690,752	1,170,608	344,485	3,814,485	13,165,270
Value of cotton-seed oil used in the manufacture of oleomargarine, proportioned according to number of bales (500 pounds gross) of cotton produced.....	\$24,402	\$26,054	\$44,153	\$12,993	\$143,876	\$496,571
Relative value of butter as compared with the cotton-seed oil used in making oleomargarine.....	187 to 1	144 to 1	50 to 1	609 to 1	90 to 1	107 to 1

^a The number of cows and amount of butter produced in Oklahoma include that of Indian Territory as the same is included in the present State of Oklahoma, for which the cotton statistics were taken in 1908.

^b In the eleven principal cotton States of this country the value of the butter made is .07 times as great as the receipts for the cotton-seed oil which is used in the oleomargarine industry. This figure is conservative inasmuch as the butter production of 1900 has been compared with the cotton crop of 1908, owing to the lack of accurate butter statistics later than 1900. Since that date the dairy industry has developed.

^c This total being only for the 11 States named is a little less than the total for the United States, which includes a small amount in States where cotton is not important.

The CHAIRMAN. Representative Tawney, of Minnesota, has asked the courtesy of the committee for a statement, and the committee will be glad to hear him.

STATEMENT OF HON. JAMES A. TAWNEY, REPRESENTATIVE FROM MINNESOTA.

Mr. TAWNEY. Mr. Chairman, the presence of the dairymen at this hearing at this time is not only because of their interest in the subject-matter of the hearing, but also because I suggested that the representative dairymen of the United States ought to be here for the purpose of hearing what the representatives of the oleomargarine manufacturers and their allied interests had to say in support of the pending legislation, to the end that they might then come before the committee at a future date, to be fixed by the committee and satisfactory to the committee and the dairymen, to present their case in full, in opposition to the pending legislation. As I understand the arrangement now it is for each side to proceed alternately, one side one day and then the other side the next day, and in the presentation of the case, so far as the dairymen are concerned, they having had no notice that they would be expected to present their case to the committee at this time, of course they are not prepared to present it in the connected and orderly manner in which, in my judgment, it ought to be presented, to the end that the committee may get a fair understanding as to just what the claims of the dairymen are with respect to the effect of the enactment of this legislation upon their industry.

I have, inasmuch as the dairymen who are here to-day have come here upon my suggestion for the purpose of hearing the oleomargarine side of the case, without any expectation of proceeding at this time with their case, this suggestion or request to make of the committee in behalf of the dairymen: That the committee proceed, as is the

practice before all the committees of the House, with the hearing of one side until the conclusion of that hearing, and that at the conclusion of that hearing those who are opposed to the legislation be given an opportunity to be heard in a connected and orderly way, at a time to be fixed, so that they will have the opportunity of considering the arguments that are made by those who favor the passage of this bill, and, if possible, come here prepared to refute them. I think it would be to the advantage of the committee. I think it would be more satisfactory to the manufacturers of oleomargarine and to the friends of the bill, and I am satisfied that it would be a great deal more satisfactory to the dairymen, who must meet the arguments that are made, and who can not meet these arguments in the way in which the hearing is now conducted, by alternating one day on one side and another day on the other side. If the dairymen had been notified that they would be expected to occupy the day following the day occupied by the manufacturers of oleomargarine, they would have come here prepared for that purpose; but they inquired of me, and I supposed the hearing would be conducted in the way in which hearings usually are conducted—that is, that the friends of the proposed legislation would first be heard and that then those who were opposed to it would be heard. Relying upon my suggestion and advice, they have come here for the purpose of hearing the case, or the argument, in favor of the enactment of the bill, with a view thereafter of presenting their case in opposition to the bill, that being the way in which the hearings have heretofore been conducted on this very proposition. The chairman of the committee will recall (he was then a member of the Committee on Agriculture, and the dairymen were then advocating the passage of the bill which is now the law) how they were given a hearing, and how after the conclusion of their hearing the opposition to the passage of the bill was heard. In that way the hearing was conducted, and I think it would result in a more satisfactory hearing. It would afford the dairymen the opportunity of coming here prepared to present their case in the most favorable light possible. I have simply this request to make of the committee: That at the conclusion of the hearing to-day the committee may see fit, as I hope it will, to proceed with the hearing of those who want to be heard in favor of the passage of the bill, and then take up the hearing of those who are opposed to the passage of the bill at such time as the committee may see fit to go on with the hearings.

The CHAIRMAN. I would like to make a statement on behalf of the committee. Your remarks seem to be predicated upon the understanding that there is only one bill before the committee, and that a measure that has been proposed by the oleomargarine interests. On the contrary, there are several bills——

Mr. TAWNEY. I understand there are several bills; but I do not think that there are any of the dairymen of the United States who are seriously contending for the report from this committee of any bill bearing on this subject at this time.

The CHAIRMAN. Well, of course I can not speak for the serious intentions of the dairy interests. I only understand that the bill which is known as the McHenry bill represents the modifications of the present law which the dairy interests think ought to be made; and that bill is taken, at any rate, as standing for the views of the

dairy interests, while the bill known as the Burleson bill is taken as the bill representing the views of the oleomargarine interests. Those two bills—

Mr. BURLERSON. I beg your pardon. The cotton-seed oil producers, and the cattle-growers' association.

Mr. TAWNEY. And the oleomargarine manufacturers.

Mr. BURLERSON. And right in that connection, the gentleman from Minnesota seems to be laboring under a misapprehension. This hearing was not requested by the manufacturers of oleomargarine and their allied interests. As I stated in the opening statement submitted to this committee, I had had no communication, direct or indirect, with any manufacturer of oleomargarine at the time I submitted the request for these hearings. It was submitted by me upon my own motion, and at the instance of the cotton-seed oil interests and cattle-growing interests; and I do not know where the gentleman from Minnesota gets his information that there is any dissatisfaction with this hearing. He has been absent from the city, and he just comes in here, and he apparently is laboring under the belief that there is some great dissatisfaction with the way this hearing is being conducted. As far as I know there is no dissatisfaction with the way the hearing has been conducted. I thought it was an extremely fair suggestion, that I think came originally from one of the members of the committee, that the interest opposed to the present law, or those who wanted to repeal the present law, should be given a hearing on one day, and that those opposed to it should be given the opportunity of being heard on the next day, thus giving them the advantage of being heard the next day in reply.

The CHAIRMAN. Please let me finish my statement. The committee assumed, therefore, that it had bills before it which reflected the sentiment of all parties in interest, and had no reason to believe that one party any more than the other would consider that it had a right to open or close the debate. So far as the committee has been advised, it would have been entirely satisfactory to the dairy interests if they had been asked to present their case first. But at the request of Mr. Burleson, as he has just stated, the committee decided to give hearings, and notice was given through the Associated Press and other news agencies, I think, three weeks if not four weeks ago, that the hearings would begin on the 20th of April.

Mr. TAWNEY. If the chair will pardon me for interrupting him right there, that announcement was made after the request of the gentleman from Texas, the author of the bill, that the hearings begin on the 20th of April, to those who favored the passage of the Burleson bill; but it was not, so far as I understood, and so far as I was informed, to include the hearings on the other side of the proposition. At the time he requested the hearings the dairymen had not requested a hearing; and while the chair is affording me the opportunity to make this statement, I want to withdraw the statement that I made a moment ago, that the request for a hearing was made by the gentleman from Texas in behalf of the manufacturers of oleomargarine. I know that he is somewhat sensitive about his associations in that regard, and prefers to be the representative of the cotton-seed oil manufacturers.

The CHAIRMAN. Of course, that is a matter which does not interest the committee.

Mr. TAWNEY. No; but as a matter of fact the author of the bill requested the hearing on his bill in behalf of the passage of the bill, and I supposed, of course, that the same line of procedure would be followed, the same practice, that has obtained heretofore before this committee and before the committees generally, of hearing first one side on the proposition to a conclusion and then taking up the matter on the other side.

The CHAIRMAN. The committee realized that a large number of gentlemen would desire to be heard and that it would probably take several days to complete the hearings. The committee felt as if they could hardly spend a solid week or ten days with this matter and thought it would be just as satisfactory to the gentlemen who wished to be heard if hearings could be given on two days of each week, the idea being that those in charge of the hearings on the respective sides would have the gentlemen whom they desired to be heard here, on yesterday and to-day, for example. Then those gentlemen could go home and next week other witnesses could be heard, and so on, as long as it seemed necessary to continue the hearings, and thus the committee would have three or four days of the week to look after other business. As soon as that determination was reached, the clerk of this committee, upon my direction, notified everybody who had asked to be notified on the part of the dairy interests, so far as I am aware, that this arrangement had been made. Notification was sent that the first day's hearing would be given over to the proponents of the oleomargarine bill, and that they would be followed the next day by the proponents of the dairy bill. Such notices were sent to William T. Creasy, of the State Grange of Pennsylvania; to T. N. Godfrey, of the New York State Grange; to G. B. Schilling, of Chicago, Ill.; to J. A. Walker, of Chicago, Ill.; to James Faust, dairy and food commissioner of Harrisburg, Pa.; and to a number of others, Mr. Flanders among them.

Mr. TAWNEY. If the chair will pardon me, it would not consume any more of the time of the committee if it heard fully one side and then heard the other side; and I want to submit to the committee this question, as to whether or not either side can present their case—except, perhaps, the proponents of the bill who have been studious in preparing for the hearing which was to begin on the 20th of April—whether either side can prepare their case or present their case to the committee on the alternative plan which is now going on as well as they could if they had the opportunity of beginning at the beginning and presenting their case connectedly through to the end?

Mr. BURLESON. We were getting along very well before you came here.

Mr. TAWNEY. That may be, so far as the oleomargarine interests—I should say the cotton-seed interests—are concerned. [Laughter.]

The CHAIRMAN. It occurred to me, and I think to other members of the committee, that the dairy interests, perhaps, would be able to make a more effective reply to the representations that were fresh in their minds, and we thought we would get a more satisfactory hearing. Of course, so far as the committee is concerned, we have no interest in the matter except to get all the information we can.

Mr. TAWNEY. I will say that a number of the dairymen here called to see me about noon to-day, and it was at their instance that I asked permission to submit this request; but they have not come here prepared to present their case at this time.

The CHAIRMAN. Let me inquire why they have not come here prepared? They were sent copies of all bills some time ago, and they were given notice, not only through the press, but by letter, that the hearings would begin; and it certainly seems to me that they have had every reason to understand that they would be asked to present their case to-day. If they are not prepared, why are they not prepared?

Mr. TAWNEY. It has been the usual order and understanding that they would be prepared at the conclusion of the hearing of those who were in favor of the passage of the bill.

Mr. LEVER. Let me suggest, in this connection, that there seems to be an idea that only two classes of people are concerned in this hearing, namely, the dairy people and the oleomargarine people. I want to suggest to the committee, and to the gentleman from Minnesota also, that there is a third class of people involved, and by far a greater interest than either of the other two mentioned, who are very much concerned in this legislation, and that there is pending before this committee a bill which, I think, somewhat carries into effect their views. That other interest is represented here—the great consuming public of this country, which wishes to be protected both against the fraud of the oleomargarine people and of the butter people also, and they have a right to be heard in this hearing.

The CHAIRMAN. Let me make this suggestion, if I may: The committee desires, of course, to afford every opportunity to every interest to present its case in the strongest way it may be able to. It desires to afford every convenience to gentlemen whom it knows have come here from a distance and are here at expense, and will gladly accede to any arrangement that may be mutually agreed upon. It seems to me that gentlemen ought to be able to come to an understanding, and if they will present any suggestion to the committee I have no doubt it can be arranged.

Mr. FLANDERS. I would like to say, briefly, that I came here on notice, and I interpreted the notice to mean—and it seems to me now that it was that way—that the first day was for the proponents of the substitute bill and the next day was for the opponents of that bill. When we came into the hearing I was much surprised to find that we were considering not that, but several others which I had not read, and on which I have been asked questions that puzzled me, because I had not had time to go through them, not thinking they were going to be considered; but we have said nothing, making the best of what seemed to us a bad matter, and thinking that possibly we should have been a little more diligent in finding out. But the notice simply was to the effect that we were to consider the Burleson bill, and that alone.

The CHAIRMAN. I am very sorry if the gentleman has kept silent under what he thought was an unfair ruling on the part of the committee.

Mr. FLANDERS. I do not want that interpretation to be put upon my remarks at all. I do not want to criticise the committee.

The CHAIRMAN. I assure you that there was no such disposition on the part of the committee.

Mr. TAWNEY. There is no such disposition on the part of anybody.

Mr. FLANDERS. But we did believe it was the Burleson bill only that was to be considered.

The CHAIRMAN. The clerk informs me that he inclosed a copy of every bill that was pending before the committee in the letter that was sent to these gentlemen.

The CLERK. No; they were sent in a separate envelope—a bill size manila envelope.

The CHAIRMAN. They were not inclosed in the same letter, but they were sent. However that may be, if gentlemen can suggest any better arrangement than the committee has thus far hit upon, I would be glad to have them suggest it.

Mr. TAWNEY. Allow me to ask the gentleman from Texas if it is not apparent to him——

Mr. FLANDERS. Mr. Chairman, may I make a suggestion? I would suggest that when we take an adjournment we adjourn to a given time, at which time all the hearings shall be concluded, if it takes one, two, three, four, or five days, and not make us come three times. Then, if we are going to consider all the bills, let that be understood. If we are going to consider a specific bill, let us know that, so that we may be prepared on the bills.

The CHAIRMAN. That is very fair, I think.

Mr. FLANDERS. I would have liked to have answered the gentleman this morning on his proposition, but I could not because I did not know the bill.

Mr. LEVER. A fairer proposition is that these gentlemen come here to discuss whether or not we can prevent fraud now and whether we can better the law.

The CHAIRMAN. That goes without argument. The committee is not committed to any bill here at all. If there can be any legislation framed that will more perfectly safeguard the sale of oleomargarine, without interfering with any legitimate industry, the committee wants to be advised on that subject.

Mr. BURLESON. Let me say one word. I have no disposition to ask for anything, or to insist upon anything except what is absolutely fair. The arrangement that was made was made at my request, but I do not think the suggestion came from me. We accepted it in good faith, and we have notified certain witnesses to be here at future dates. I think that can probably be rearranged, as far as that is concerned; but it struck me that it was a very good plan to have these hearings as was suggested, and I do not think there was any dissatisfaction with the course that these hearings were taking until the gentleman from Minnesota returned from home this morning; and then, all of a sudden, there is a general dissatisfaction with the hearings as they are being conducted.

Mr. TAWNEY. The gentleman from Texas knows very well that when gentlemen come here from different States, and from different parts of a State, to appear before a committee of Congress, no matter how much dissatisfaction they may feel, when they know that the committee has to consider their interests in connection with legislation, they are not liable to manifest that dissatisfaction before the committee. It is only because I, at the request of representative dairymen in different parts of the United States was asked to advise them as to the mode of procedure, which I did, supposing, of course, that the procedure would be the same as it always has been before on other questions; and I advised them that they would not be heard, that they had not asked for a hearing as yet, and that at the

conclusion of the hearing of the oleomargarine interests then the dairymen would have their opportunity, or their day in court, to answer them. The gentleman from Texas knows as well as every other gentleman here that in any controversy, in the consideration of any controverted question by a committee of Congress, in order to consider it intelligently the whole case on either side ought to be presented connectedly and in order. This thing of bushwhacking back and forth, day after day, does not reach a conclusion as satisfactory as you could reach in the event that each side took up its case, as it would on any other controverted question, and concluded the argument in order.

The CHAIRMAN. Yet the gentleman from Minnesota knows that we "bushwhack" in the House in discussion, under the five minute rule.

Mr. TAWNEY. Oh, yes; in the House of Representatives, when we debate under the five-minute rule.

The CHAIRMAN. That is what we are doing here.

Mr. TAWNEY. But that is after both sides have been thoroughly prepared, and are prepared to "bushwhack."

The CHAIRMAN. Yes, as to the general proposition, but not as to amendments to be offered; and we are considering the question of amendments here.

Mr. TAWNEY. I was in hope that the gentleman from Texas, or the representatives on their side, would agree to go on after to-day and conclude their hearings, which would afford the dairy interest, or the representatives of the dairy interest, an opportunity to formulate a programme looking to having one or two or possibly three men represent and speak for all of them. That would save the time of the committee. As we are proceeding at present, of course the hearings may be extended indefinitely, as they were when this bill was first considered in 1900, at which time the hearings continued for a period of about four months.

The CHAIRMAN. They will not continue that long this time, I am sure.

Mr. TAWNEY. As the chairman of the committee knows, it is only in the interest of getting before the committee in the logical, orderly way, the arguments on both sides, so that when the committee comes to consider the arguments they will have them all connected.

The CHAIRMAN. The order which the committee made was made with the expectation that it would be the most satisfactory way for all the interests concerned to proceed. We have no desire to insist upon it, whatever, and I should like to put to the committee now, acting upon the suggestion of Mr. Flanders, the question whether you would be willing to let the next hearing begin a week from Monday and continue during the remainder of that week until it is concluded.

(At this point a conference between the members of the committee and certain gentlemen present ensued.)

The CHAIRMAN. The committee will come to order. There are two or three gentlemen who are anxious to be heard this afternoon and who will not be able to return; and in order not to delay them the committee will proceed now with its hearings. I should like to request gentlemen who have not yet been heard and who desire a hearing to remain after the committee adjourns and we will try to come to an understanding as to future hearings.

Mr. Flanders, you may present your next witness.

Mr. FLANDERS. Mr. Chairman, there are two witnesses here who want to speak for about five minutes, briefly and to the point, upon the question of oleomargarine being the poor man's butter. I will now introduce Mr. W. D. Edson, of Pennsylvania.

STATEMENT OF MR. W. D. EDSON, OF PHILADELPHIA, PA.

Mr. EDSON. Mr. Chairman and members of the committee, I want to place myself before this committee fairly from the start by telling you that I have no knowledge whatever of the method of the production of oleomargarine, and but a limited acquaintance with the actual methods in the production of butter. I am merely a wholesale butter dealer in Philadelphia. I have been in the business for the past twenty-six years. I handle annually several million dollars worth of pure butter product, and I handle no imitations.

I have been requested by the president of our National Dairy Union to express my views as to the effect of this present law upon the poor man or his pocketbook. It appears that for the past year the sales of oleomargarine in Pennsylvania, and particularly in Philadelphia, have largely increased in the face of a law which the oleo manufacturers claim is the most drastic and unfair law in the United States. The figures that I propose to submit now are of necessity based on the reports of the amount of oleo manufactured last year, as given by the government reports up to June 1, 1909, we having no report for this year. But I am perfectly safe in stating that there is a much larger amount of oleo being sold in Pennsylvania now than there was last year.

The production of oleomargarine up to June 1, 1909, amounted in round figures to about 92,000,000 pounds. For this production the Government, I understand, received a tax of 10 cents per pound on about 3 per cent of this amount. So that if they were befriending the poor man and they were giving him a butter at a price consistent with the price of production, the poor man's pocketbook certainly could not have been affected to the extent of over 3 per cent on that production. The fact of the matter is that, taking my own experience, the reports that I have been getting weekly from 12 or 15 men on the road, together with the information that I have received from our dairy and food commissioner of the State of Pennsylvania, through his agents, would indicate that fully 90 per cent or more of the oleomargarine going into Pennsylvania and Philadelphia is colored in absolute imitation of real, pure, yellow butter. Here is a sample right here on the table [indicating] of butter purchased by our state commissioner or his agent, that was taken from a package with an original stamp bearing one-quarter of a cent per pound tax. This butter was manufactured under the regulations of the Grout bill.

The CHAIRMAN. You had better use the term "oleomargarine," because it might appear that you were speaking about butter.

Mr. EDSON. Yes, oleomargarine. I would ask you, gentlemen of the committee, if you think that the true meaning and intent of the Grout bill is being carried out when they produce a pound of oleomargarine as yellow as that is [indicating] on which the manufacturer has paid one-quarter of a cent per pound.

Now, it has been indicated to a number of us that the very high prevailing prices of food products has caused this to be a most opportune time for a request to remove this tax from oleomargarine. Providence apparently has been very kind to the oleo people, on this account; but an investigation of all of these newspaper reports, and of this question of high prices of food products has disclosed the fact that no such condition exists, to a very large extent. Throughout the entire winter there have been thousands and thousands of cases of oranges, pineapples, and different kinds of fruit, that have been sold in our large cities at prices that would hardly pay for the labor and the boxes in which they are carried, and the freight. There are thousands and thousands of cases of canned goods of all kinds that are stored to-day by men who are in the business, that will not realize the prices that were paid for them last summer. There are millions and millions of bushels of potatoes in the United States to-day, in the cellars of the farmers, begging a market at from 15 to 30 cents a bushel. Think of it.

The CHAIRMAN. Where are they?

Mr. EDSON. I will tell you where they are. Senator Creasy only last night told me he had received a letter or had heard from some friend in Michigan, who stated that in one county in Michigan there were 400,000 bushels of potatoes seeking a market at 15 cents a bushel.

The CHAIRMAN. Why do they not come down here with them?

Mr. EDSON. I do not know. No, Mr. Chairman, you can buy potatoes at any price.

The CHAIRMAN. Not in Washington.

Mr. EDSON. No; you can not buy lots of things in Washington. It is pretty hard to get pure butter in Washington.

The CHAIRMAN. But really, it seems very strange that with transportation charges as cheap as they are in this country now, that potatoes should be 15 cents a bushel in Michigan and 80 cents a bushel in Washington. How do you account for it?

Mr. EDSON. I am honestly endeavoring to quote you facts, and every statement I make can be absolutely confirmed.

The CHAIRMAN. We do not question your facts; but I ask you if you have any reason to give why it should be so?

Mr. EDSON. I really do not know why that is, but it is a fact.

Now, aside from our fruits and vegetables, we will take our groceries. A conversation with grocers discloses the fact that going right down through the entire list of over 200 items there is not one item, hardly, that is higher than it was a year ago, and in most cases they are lower than they were a year ago. The whole thing boils down to the point that aside from dairy products and meat, living is cheaper in all lines.

Now, why is butter higher than it usually rules? I do not think it is very much higher, but it may be a cent or two higher this year than it was last year. First we must consider what constitutes a pound of butter. There are lots of people who eat butter, who really do not know what it contains. It contains, first, the production from the farm of 10 quarts of milk to produce that one pound of butter, together with the cost of the creamery for manufacture, the freight, the commission man's profit, and finally it reaches the consumer at a price based upon the most fair and up-to-date and legitimate competition, as governed among the butter men. It is made

in the open, and sold in the open, and to-day the volume of the butter business in the United States, which amounts to something like \$400,000,000, is carried on at a gross profit, I honestly believe, of less than 5 per cent. It is claimed that there is a butter trust. For your information, taken from actual statistics, the production of butter in the United States for a year shows that the proportion of the entire annual production that goes into cold storage warehouses is less than 4 per cent, and that 4 per cent that is stored in warehouses is owned by thousands of dealers. How could there be a trust in the face of such a condition?

The CHAIRMAN. I have seen the statement, if it does not interrupt you, that the big packing houses, like Armour and Swift, who are also manufacturers of oleo, have stored away vast quantities of butter, and through that means have artificially advanced the price of butter, in order, as it was said, that they might get a better price for their oleo as a substitute for butter, and even to better the market for it. Do you know anything about that?

Mr. EDSON. No, sir. I think the selling price of butter the world over is simply a matter of supply and demand.

The CHAIRMAN. Do you think the organization of a butter board of trade, such as that at Elgin, where a board of quotation meets every week and announces the price at which butter shall be sold, has nothing to do in the way of interrupting or interfering with competition?

Mr. EDSON. Absolutely nothing, sir. I believe that that board of men at Elgin is appointed to make a conservative quotation, as a basis of the price for operations in butter throughout the United States, if they can.

The CHAIRMAN. If the purpose is not to interrupt competition or interfere with it in any way, why should such a board be organized? What is the purpose of announcing a quotation?

Mr. EDSON. I will tell you. It is simply to establish a trading basis. It is the surplus production of any commodity that we handle that establishes the market price for it, and it affords a trading basis. That is, the board in New York and the board in Chicago and the board at Elgin, at times, and in fact every week when they meet, establish by actual sales a price on which we can operate.

The CHAIRMAN. If competition is free, why should not every man who is dealing in butter fix the price according to his own judgment?

Mr. EDSON. He can if he wishes to. The boards of trade in no way interfere with individual transactions.

The CHAIRMAN. Yet as a matter of practice men who are dealing in butter do determine their own price, the price which they shall pay if buying or the price which they shall sell at if selling, to a considerable extent, if not entirely, by these quotations, do they not?

Mr. EDSON. Yes. I will tell you about that. I operate to some extent. I have creameries, for instance, in Wisconsin whose entire product I take on the agreement that they will send me their entire make, so that I can count on an established supply. Every week on the arrival of that butter in Philadelphia the price is made on a basis or in comparison with the established board of trade price in Chicago. So that every week's work is not a matter of negotiation, but is established by the quotations as made by these exchanges. Some dealers operate on a basis of New York, some on a basis of Elgin, some on a

basis of Chicago. Years ago we used to get all our material on a commission basis. In those days one man could go West and solicit from the farmer what it would take 10 men to sell in the East. To-day the business has revolutionized itself, and what 10 men can get on commission in the West one man can readily dispose of in the East.

Mr. LEVER. Right on that point let me ask the gentleman if this is a fact. I notice it has been stated, and I have heard it so stated, that the Elgin trust or company reduced the price on its butter 6 cents in one day by telegram throughout the country, and very recently, too.

Mr. EDSON. If they did, it was, in their good judgment, the time to reduce the price of butter.

Mr. LEVER. Do you know whether or not they did do it?

Mr. EDSON. I think I recollect something about that; but there is nothing so very unusual about that. I would tell you, for your information, that it is the intelligent distribution of butter throughout the country that enables us to supply the markets. There are a certain number of very large warehouses who voluntarily, the first of each month, publish the exact amount of their holdings in butter, so that every man in the business can be apprised of how much butter we have in our refrigerators for future use. If the butter goes out too fast the price comes up a little, and if the butter does not move rapidly enough the price goes down a little. In that way the movement of it is regulated.

Mr. LEVER. Did I understand you to answer yes or no to the proposition whether or not this company had reduced the price of its butter 6 cents in one day by telegram?

Mr. EDSON. I might state in answer to that question that the Elgin board only meets once a week. It establishes its quotation for a week's trading price on Monday of each week. The New York board meets daily—

Mr. LEVER. That does not quite answer the question, yet.

Mr. EDSON. Let me hear the question.

Mr. LEVER. The question is whether or not you know that the Elgin people reduced the price of their butter 6 cents in one day, by telegram, throughout the country?

Mr. EDSON. I do not know that; no, sir.

The CHAIRMAN. I happen to be able to answer that.

Mr. LEVER. I would be glad to put the telegram in the record. This telegram is addressed to John F. Jelke, care The New Willard Hotel, Washington, D. C., and it reads: "Elgin market, January seventeenth, thirty-six. January twenty-fourth, thirty."

That covers a week, I believe it is. I will put that in the record.

(The telegram above referred to is as follows:)

CHICAGO, ILL., April 21, 1910.

JOHN F. JELKE,
Care the New Willard Hotel,
Washington, D. C.:

Elgin market January seventeenth, thirty-six; January twenty-fourth, thirty.

JOHN F. JELKE CO.

The CHAIRMAN. In order that the record may contain all the information that may bear directly upon that point, or that seems to bear directly upon that point, I think it is only fair to say that a gentleman representing the Elgin Board of Trade who testified before a Senate committee a few days ago, when his attention was called

to that matter, explained it by saying that the New York board of quotation met daily; that at the beginning of this week it began to reduce the price of butter, reducing it 1 cent each day, so that at the end of the week when the Elgin board met the New York quotation on butter was 6 cents below what the New York quotation had been the week preceding and what the Elgin quotation had been. His statement was that the Elgin board reduced its quotation to meet the New York quotation, and that was the explanation of it. It seems only fair to make that statement at this time.

Mr. LEVER. Yes. The gentleman stated a moment ago that there was no trust in butter. I want to read to him a statement here; and ask him whether he knows anything about this:

The investigations show that the cooperative creamery yields the largest returns to the farmer for his butter fat. The individual and combination creameries, usually being located in close competition with the cooperative creameries, pay very nearly as much. The centralizers, where they have gained a monopoly, pay as little as the farmer will accept. Reports for July, 1907, show that in Kansas and Nebraska, where the monopoly appears to be complete, the farmers receive only 17 to 18 cents a pound for their butter, while in northern Iowa, Minnesota, Wisconsin, and Illinois, where the cooperative creameries have the field, the prices were from 25 to 26 cents.

The methods of the centralizers are sometimes very reprehensible. Where these concerns have come into competition with small creameries, they have raised their prices to a point that made it impossible for the small concerns to continue, and have thus forced the latter out of business. Competition having been destroyed and a monopoly secured, the prices paid to the farmers were lowered.

Do you know anything about that?

Mr. EDSON. No, sir; but I can make a statement here about that, if you—

Mr. LEVER. Let me state, before you do that, that I am reading from the annual report of the Bureau of Animal Industry for 1907. It is an official document.

Mr. EDSON. Gentlemen, I want to appeal to your good, sound business sense here. With thousands of reputable and responsible commission houses and butter houses all over the United States, can you conceive of a condition where the farmers of any particular State can be defrauded in that way? There is hardly a State in our butter-making section that has not creameries run on what they call the cooperative system. Their product is invariably sold to the highest bidder, and I really doubt if you can find any other condition in any of the butter-making States.

The CHAIRMAN. Do you challenge the statement?

Mr. EDSON. I do.

Mr. LEVER. In other words, you put your judgment against the investigation of the official of the Bureau of Animal Industry, do you?

Mr. EDSON. I certainly would; yes, sir.

The CHAIRMAN. Are there any further questions?

Mr. BURLESON. I did not understand, Mr. Edson, whether you were for the continuance of this tax or against it.

Mr. EDSON. Might I be permitted, first, to continue my remarks?

Mr. BURLESON. Certainly. I beg your pardon; I thought you had concluded.

Mr. EDSON. No.

The CHAIRMAN. Go ahead, Mr. Edson, and finish your statement.

Mr. EDSON. Since the start of this argument we have lost a lot of time, and have given a lot of attention to the relative merits of oleo-

margarine and butter; but I do not think, gentlemen, that we have reached the great and enormous interests that are being affected by this legislation. You can conceive what happens when a farmer takes his milk to the creamery and has returned to him the skim milk or whey. He takes that and mixes it with his meal or feed, and feeds his chickens, and he feeds his pigs. You can see how it is a wheel within a wheel, so far as his business is concerned. He fattens his chickens—and right there, for your information, I would state that the fattened poultry industry in the United States last year amounted to something in the neighborhood of \$500,000,000. The farmer's business is practically like a large department store, and if you ruin one element of it, you are liable to carry the whole fabric away. The farmer produces in the neighborhood, as near as I can figure it, of about 41 per cent of the production of our wealth in this country yearly. The production of eggs, following the poultry, amounts to something in the neighborhood of four or five hundred millions—I do not know the figure exactly. It is a matter of record with the Government as to just what it amounts to. But as I said before it is one large business with the farmer, and his entire material is sold out in open competition, as I said before, at nominal prices, and consistent in every way with the actual cost of production.

Now, what has occasioned these high prices of dairy products? You must consider the condition of the farmer. It is the presumption to-day that he is getting all the money of the country. I doubt if there are not lots of farmers here who in the last twenty-five years can recollect when the farmer only got 3 or 4 cents a pound for beef and pork, 10 cents a dozen for eggs, and maybe 50 or 60 cents a bushel for wheat. Ninety-five per cent of the farmers in the country twenty-five years ago were on the verge of bankruptcy, and the boys and girls as they grew up deserted the farm and left their parents with the proposition to tackle themselves. I will say, however, that conditions have gradually been improving, owing to the advancing prices of the products; but to-day the farmer is handicapped, first, by the cost of labor. For your information I will tell you that it is almost impossible to employ men to milk cows. Nobody wants the job. The cost of feed in this country is a big item. As shown by our government reports, it costs a farmer in the neighborhood of \$40 a year to winter his cows. That may be more or less according to the locality. And when you come to consider what he gets for the products of that cow it resolves itself down to the point where his chief revenue from the cow is the manure that keeps the land up. It is an admitted fact that unless we preserve the fertility of our soil by manure or fertilizers, or something of that kind, the farms go down and production decreases. We will admit that the farmer's product costs more than it ever did. We must also admit that the working people of the country, every one, our business men, have all had their revenues increased. The railroads have increased the wages of their employees; trolley men and clerks, everybody in every branch of industry, have had their wages increased. Does the increase in income and wages tend to reduce prices? Certainly not. Wherever the production does not keep pace with the increase of the money that is to be spent, higher prices are bound to prevail. If you want lower prices, you have got to raise more, you have got to produce more. If you want cheaper butter, you have got to produce more butter, and to produce

more butter you have got to encourage the production of it. If you want to annihilate the dairy interests from the face of the earth, all you have to do is to encourage the manufacture of a product as a substitute for it that can be produced for half the price and sold for the same money. Start it once, and the laws that govern business will finish the job.

I want to say in conclusion, gentlemen, that I have been a student of this business for twenty-six years, and I know what I am talking about. Every statement I have given you is absolutely straight and truthful, so far as I know. If I have made any misstatement, and I can be shown that I have, I shall be very glad to "acknowledge the corn," and to admit my mistake; but I have tried to give you a truthful statement of the condition of the business, as I view it from my standpoint.

I can only say one thing in conclusion: Mr. Burleson yesterday stated that there were 5,759,000 farms in the United States, with every farm representing one farmer and a family of four or five; in all, a total of something like 28,000,000 people. I believe that 75 per cent of the farmers will agree with just what I have said here to-day. I believe that every member of this committee has some good truthful friend who is a farmer, who can be shown this statement, and I believe he will confirm it and corroborate it.

The CHAIRMAN. One moment. The question before this committee is not as to the injuring or promoting of one industry or another. It is the question of protecting the consumer from the fraudulent sale—

Mr. EDSON. I would like to be heard on that.

The CHAIRMAN. And I would like to have you state in what particular you consider the present oleomargarine law defective, and your suggestion as to a remedy.

Mr. EDSON. Well, gentlemen, I will tell you first that I am prominently connected with the Pure Butter Protective Association of Pennsylvania, and for the past twenty years, with the exception of two years, there has never been a month hardly that I have not put my hand in my pocket and subscribed money and time to enforce our oleo law for the protection of our business. It is the united opinion of every one connected with me in my business, and from information that I can get from our dairy department and our food commissioner and through all his agents, that invariably, it does not make any difference who it is, almost when this oleo is bought it is invariably sold for butter.

The CHAIRMAN. Let me ask you what the laws are in that respect?

Mr. EDSON. The laws of Pennsylvania make it unlawful to sell colored oleo in the State.

The CHAIRMAN. Any kind of colored oleo?

Mr. EDSON. Any kind of colored oleo.

The CHAIRMAN. Is that law effective?

Mr. EDSON. No, sir; that law is absolutely unable to be enforced now.

The CHAIRMAN. If it is ineffective in Pennsylvania what reason can you give the committee for thinking that a precisely similar law would be effective, if enacted by the general Congress?

Mr. EDSON. In my opinion a precisely similar law will do us no good.

The CHAIRMAN. I understand that that is what we are asked to do.

Mr. EDSON. No; I will tell you. The only protection to-day, gentlemen, of the pure-butter interests in this country, is that 10-cent tax.

The CHAIRMAN. Well, I have understood that the proponents of the McHenry bill, which proposes to amend the present law from the standpoint of the dairy people, attach a great deal of importance to that modification wherein they change the language so as to provide that oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients thereof, shall be regarded as colored oleomargarine, and treated accordingly. Now, I understand that your Pennsylvania law does contain that provision, substantially.

Mr. EDSON. Yes; but I will explain that. We have made many arrests in Pennsylvania; we have apprehended dealers, retailers, selling that colored oleo on which there has been paid the one-fourth of a cent a pound tax, for butter; and when we arrest them we find that the original package from which that pound of butter came, contained the one-fourth of a cent per pound which the Government was supposed to put on it, carrying with it the Government's approval, and right in the face of that evidence our courts refused to convict. The Government by its stamp declares that it is uncolored oleo. What can we do? [Laughter.]

The CHAIRMAN. There is not anything in this law that requires the courts of Pennsylvania to be governed by it, is there?

Mr. EDSON. No; but it is the moral influence on our courts that would be helpful. To think that the United States Government stamps with its approval a product like that which comes into our State and is sold in violation of our statutes there.

The CHAIRMAN. Then you believe that if the same provision which is contained in your Pennsylvania law could be written into the federal statute, it would not only help to control this matter in interstate commerce, but would assist in enforcing your state law?

Mr. EDSON. I think it would; yes, sir. Of course I am not entirely familiar with the phraseology of these bills. In fact, I have left that entirely to my attorney, who was interested in the drawing of that bill. But all I can tell you gentlemen is the experience that I find in actual business in Philadelphia and the experience that I meet in competition with this product here. I want to tell you that you can go into our steamship lines, going down to the West Indies—

Mr. BURLESON. Before you get to that, as I understood you, you say that your attorney drew this bill?

Mr. EDSON. No; he aided—the McHenry bill, I say.

Mr. BURLESON. I understood you to say that you left it to him. But he aided in drawing the bill?

Mr. EDSON. No; this is what I said. I said that in matters pertaining to the drawing of any of the bills where our Pure Butter Protective Association was concerned, I always asked them to send me a copy, which I submit to my attorney for his opinion.

The CHAIRMAN. Let me ask this: Mr. McHenry is a Representative from Pennsylvania?

Mr. EDSON. Yes.

The CHAIRMAN. Are we to understand that the bill he has introduced represents the sentiment of your protective association?

Mr. EDSON. Yes, sir.

Mr. STANLEY. You speak of the moral tone. Do you mean to say that in Pennsylvania, when a plain case has been made out of violation of the law, the courts refuse to convict?

Mr. EDSON. Yes, sir.

Mr. STANLEY. It is a matter for the jury, is it not?

Mr. EDSON. Well, the jury will not convict.

Mr. STANLEY. The jury will not convict?

Mr. EDSON. No, sir.

Mr. STANLEY. Is it owing to a defect in the law, or to some sentiment among the people of Pennsylvania that the law itself is defective.

Mr. EDSON. I think the jury is largely influenced by the judge's charge; but the conditions exist just as I have told you gentlemen.

The CHAIRMAN. Have you, as a butter dealer, ever had any experience that would lead you to think that oleomargarine had been used in the manufacture of creamery butter?

Mr. EDSON. Well, not in the manufacture of creamery butter; but I believe that creamery butter has been introduced into the manufacture of oleomargarine.

The CHAIRMAN. That is admitted. That is not denied. But the statement was made here yesterday that large quantities of oleomargarine were sold to creameries, and I wondered if you—

Mr. EDSON. I do not believe that. The only case on record that I have any knowledge of, in the entire experience of my business, was the case of a man down in West Virginia who, in the summer months, shipped to Philadelphia in the neighborhood of four or five hundred tubs of butter. I presumed it was honest, pure butter, and advanced him eight or nine or ten dollars a tub—whatever it was, I have forgotten. But before I had definitely sold any of that butter the government officials ran him down in some other city and it led to an investigation of the butter he had shipped to me. I think there was something like 55 tubs of it. The whole business was analyzed by our internal-revenue department, and the 55 tubs, as far as I recall, were confiscated, on which, of course, I lost the money.

Mr. BURLESON. Confiscated on what ground?

Mr. EDSON. On the ground that it was oleo mixed, or something; I have forgotten. It was confiscated. It is a matter of record in Philadelphia.

The CHAIRMAN. And that is the only case you know of?

Mr. EDSON. That is the only case I have had any experience with.

Mr. BURLESON. I would like to ask the gentleman a question or two.

Mr. FLANDERS. Before you ask your questions, there is one thing that I wanted to bring out, and then you can go ahead. I wanted to ask the gentleman if he knows whether there is any difference in the price of oleomargarine on the market between that that is colored and that that is uncolored?

Mr. EDSON. If you were to ask me to answer that question in so far as the trade in Pennsylvania is concerned, I would tell you that I have not seen but one sample of white oleo—that is, uncolored oleo—in Pennsylvania in many months. An agent of our dairy and food commissioner came into my office about a month or two months ago and he brought in in the neighborhood of 20 samples of different marks of oleomargarine that he had secured on the market. I

believe there was one sample in the whole bunch that was not colored—possibly one that was not colored and one that had a very light shade of yellow—but that is the only experience I have had on that.

Mr. FLANDERS. Can you tell us anything about the respective prices?

Mr. EDSON. The respective prices of white oleo as compared with the yellow is in the neighborhood of, I should think, 10 to 15 cents per pound. It is a well-known fact that butter sets the price of oleo. We invariably find that all of the traffic in oleo is at butter prices, when it can be sold in a way that will bring the full price; but in order to bring trade it is offered at from 1 to 3 cents per pound below the price of pure butter. That is the record and the information that we get from every source that we go to to find out.

The CHAIRMAN. Is that so when it is sold as oleomargarine?

Mr. EDSON. No, no. The middleman does not pay that price. I am talking of the consumer.

The CHAIRMAN. I understood the gentleman who brought these samples here to say that he bought them in Chicago for 20 cents a pound; and I presumed that butter was selling in Chicago for from 40 cents to 50 cents a pound.

Mr. EDSON. I do not know anything at all about the sale of oleo in Chicago; but I presume that there is always that difference in the price of the yellow oleo as compared with the light.

The CHAIRMAN. Is it true that oleo, yellow oleo, sold on its merits as oleo, will bring a price within from 1 to 3 cents of the price that will be paid for genuine first-class butter?

Mr. EDSON. No, sir; not unless it is sold for butter.

The CHAIRMAN. I misunderstood you, then.

Mr. EDSON. It has to be sold for butter; but these men come into my office, and they tell me in Pennsylvania that they go into stores that used to sell 10 or 15 tubs of butter a week, and they find these packages spread right out along the counter. Where there used to be 7 tubs of pure butter of a Saturday, at retail, we find 2 tubs of pure butter and about 5 or 6 tubs of oleo.

The CHAIRMAN. Are these packages branded "Oleo?"

Mr. EDSON. They are all marked; but you can imagine a little Russian Jew coming in for a pound of butter, and you can see that man behind the counter taking his money and giving him butter! There is no representation made, or asked in those mining villages. The people are of an illiterate class, and these people sell it to them at the butter price. Probably if a detective should go in, he could buy oleo, and the representation would be made absolutely that it was oleo.

Mr. BEALL. How are the packages put up?

Mr. EDSON. They are put up, I suppose, in prints or rolls.

Mr. BEALL. I see some little boxes there [indicating]. What are those little boxes?

Mr. EDSON. That is one of Swift's boxes, that he puts up in Chicago, "Swift's Premium Oleomargarine."

Mr. BEALL. Does oleomargarine come in those boxes?

Mr. EDSON. I presume it does.

Mr. BEALL. If the purchaser comes in and wants a pound of butter will the retail merchant pass him out one of those boxes?

Mr. EDSON. He would.

Mr. BEALL. With the wrapper on it?

Mr. EDSON. Possibly he would.

Mr. BEALL. The package is inclosed in the box?

Mr. EDSON. Yes.

Mr. BEALL. And it plainly says "Oleomargarine?"

Mr. EDSON. Yes; probably he would. I don't know. I would not deny that; but I will say this: That the hotel keeper, the restaurant man, or the boarding-house keeper will take that package and destroy the box, and obliterate any mark, and serve it on the table as butter.

Mr. BEALL. But I want to stay still with this retail dealer. Does the retail dealer before he disposes of it ever take it out of the original packages?

Mr. EDSON. I do not know that, sir.

Mr. BEALL. Have you ever seen any in Philadelphia or in your State sold otherwise than in the original packages?

Mr. EDSON. I would rather have our commissioner answer that question, because he and his agents are constantly working in that direction, and I am absolutely unfamiliar with that. I never handle any of it. I only get the information.

The CHAIRMAN. Will your commissioner appear here?

Mr. EDSON. Yes; he is in the city.

Mr. STANLEY. As I understand the gentleman's original statement, the sale of colored oleomargarine is absolutely prohibited by law in the State of Pennsylvania?

Mr. EDSON. Yes.

Mr. STANLEY. And they are not allowed to put any of those packages on sale at all?

Mr. EDSON. No.

Mr. STANLEY. You never see any on sale, then; and oleo to be sold in Pennsylvania has to be sold as butter.

Mr. EDSON. But you can go up on Chestnut street to the principal department store, Kimball Brothers, where they have a grocery department. This is butter that came from them [indicating].

Mr. STANLEY. That is not butter.

Mr. EDSON. I did not mean butter, but oleomargarine. Look at the color of it. That oleomargarine is supposed to be a product that has paid a quarter of a cent a pound tax.

Mr. STANLEY. I am not discussing that question, but what I am driving at is that oleomargarine, as such, colored oleomargarine, so marked and designated, can not be sold in Pennsylvania without a violation of a well-known law, with a severe penalty attached.

Mr. EDSON. Yes.

Mr. STANLEY. Then nobody sells oleomargarine in violation of law in that way, do they, in Pennsylvania? They sell it as butter and take their chances on getting caught?

Mr. EDSON. No, sir. I will tell you what they are doing now. They are selling that for oleomargarine, uncolored. They are selling it for uncolored oleomargarine.

Mr. BEALL. In that department store what sort of a package is handed out to the man who comes there to buy?

Mr. EDSON. I have not seen the package, but there are gentlemen here who went up in a body one day, six or seven of them, from our protective association. They went in there and made these purchases.

Mr. BEALL. You did not bring those packages yourself?

Mr. EDSON. No, sir; Commissioner Foust, or one of his agents, brought them a week ago, I think.

Mr. LEVER. I would like to ask one other question that he might answer and which might throw some light on the matter. What percentage of your business goes into the hotel and restaurant trade, if you happen to know.

Mr. EDSON. It would be very difficult for me to decide upon that; but I think if you want to get an estimate of about the percentage of the butter that is raised or shipped to our large cities it would simply be an estimate as to the floating or transient population. These hotels are immense users of this material. There is no doubt about that. You would be surprised at the volume of business that goes through these hotels.

Mr. LEVER. You can not approximate it, though?

Mr. EDSON. It would be very difficult to do so; but it is a very large amount.

Mr. HOWELL. What is the relative value of oleo and butter?

Mr. EDSON. I can not tell you. I do not deal in that.

Mr. HOWELL. Do you come in contact with it?

Mr. EDSON. When we come in contact with it we find that it is retailing, as I said before, within from 1 to 3 cents per pound of the price of butter.

The CHAIRMAN. That is, when it is fraudulently sold? But I assume that the commissioner will bring that out.

Mr. EDSON. The commissioner can bring it out, because when they went up there they bought at retail.

Mr. BURLESON. Did I understand you to say that a large percentage of the colored oleomargarine that is sold in Pennsylvania is fraudulently sold as butter?

Mr. EDSON. Or considered so by our State.

Mr. BURLESON. Fraudulently sold as butter?

Mr. EDSON. Yes, sir.

Mr. BURLESON. You do not sell oleomargarine?

Mr. EDSON. No.

Mr. BURLESON. Did you ever sell oleomargarine?

Mr. EDSON. Yes, sir.

Mr. BURLESON. How long ago?

Mr. EDSON. It must have been—I don't know; away back in my first year in business. Everybody in Philadelphia was selling oleo. I tell you if we had had a year of it we would have wiped the dairy interests out of the State of Pennsylvania. [Laughter.]

Mr. BURLESON. You sold it as oleomargarine, did you not?

Mr. EDSON. We sold it for any old thing. It used to come in marked "Red Leaf Creamery," "Red Leaf Butter," and all those names; and the trade used to grow so fast——

Mr. BURLESON. Let me understand you. Did you sell it as oleomargarine or not?

Mr. EDSON. Well, the man that bought it knew it was suine, or some style of butterine. He asked the price, and we took it out and sold it for butter.

Mr. BURLESON. I did not ask you about the man to whom you sold it. I asked you if you sold it as oleomargarine?

Mr. EDSON. I can not answer that question, because we simply sold it for what it was marked.

Mr. BURLESON. All right; if you can not answer the question I will move on to another question. You say that oleomargarine—yellow oleomargarine—can be made for about half what butter can be made for, in the course of your statement, as I understand it?

Mr. EDSON. I should have said that we estimate the cost to be that.

Mr. BURLESON. Is that your estimate now, that it can be made—

Mr. EDSON. That is my opinion; yes. I may be wrong, but that is my opinion.

Mr. BURLESON. Do I understand you, then, to come before this committee and say that if oleomargarine can be made for 50 per cent of what it costs to make butter, a tax should be levied upon it because it is a cheaper food product than butter?

Mr. EDSON. No, gentlemen. I will say this: I have my own personal views on that 10-cent per pound tax. I know in my heart that 95 per cent of the colored oleo that is sold in our State is sold for butter, and at butter prices; and the poor workingman does not get the 10-cent tax. I would a great deal rather see that go to the Government than to see it go into the pockets of the oleomargarine manufacturer.

Mr. BURLESON. I am not talking about where the revenue goes, Mr. Edson. I want to ask you this again: You have made the statement that oleomargarine—colored oleomargarine—can be made for about 50 per cent of what it costs to make butter.

Mr. EDSON. I should think that was my opinion.

Mr. BURLESON. Do you mean to say that it ought to be taxed, then, in order to bring it up to the price of butter?

Mr. EDSON. I say the oleo should not be taxed, if it can not be sold in imitation of butter. If they could show me by a demonstration that oleomargarine can be made white, and that the consumer can positively not be deceived, then I should say it was not fair to tax it.

Mr. BURLESON. Let us see if we do not reach an understanding about it. Then, if oleomargarine can be manufactured, if colored oleomargarine can be manufactured for 50 per cent of what it costs to manufacture butter, if regulations can be prescribed which will regulate its fraudulent sale, it would be a good thing for the poor man, would it not?

Mr. EDSON. Possibly it would. I want to tell you, gentlemen, why I am skeptical. I do not believe that if we all stand here and live this thing out for a million years to come, that oleomargarine will ever be produced without that little tinge of yellow in imitation of butter. If it were possible to manufacture oleomargarine and have it sold to the consumer in its pure white state, as it should be, and a heavy penalty—no fine, but a penalty of some imprisonment—were prescribed, it might work the proposition out.

Mr. BURLESON. All right. Now, let me see if I understand you. As I understand your last statement, if a requirement is embodied in the law as read by the chairman a while ago, that oleomargarine should not be manufactured of any shade of yellow, that would absolutely prohibit the manufacture of oleomargarine altogether, would it not?

Mr. EDSON. I do not know. I will tell you why—

Mr. BURLESON. You say you do not know. Did you not state a minute ago that it could not be manufactured without a tinge of yellow?

Mr. EDSON. I say that you, this morning, came here and tried to tell our worthy president here in regard to these colors that he could not tell the difference between white and the other color. While that question of color is under discussion, I will say that there does not seem to be any way in which these two interests can get together on that color proposition. These oleo manufacturers know, gentlemen, that without that color they can not make a cent on this product.

Mr. BURLESON. I wanted to see if I understood you. I understood you to state, and I think the stenographer's notes will so show, that oleomargarine could not be manufactured without a tinge of yellow.

Mr. EDSON. I beg your pardon, then. I wish to correct it.

Mr. BURLESON. You think it can be manufactured, then, without a tinge of yellow?

Mr. EDSON. Evidently, here it has been [indicating], if some one is not a most gigantic swindler.

Mr. BURLESON. Do you say that that has not a tinge of yellow in it?

Mr. EDSON. That has a tinge of yellow; yes. But it has been manufactured, apparently, with material that we can not analyze, and get any coloring.

Mr. BURLESON. Evidently you do not understand my question. Can the oleomargarine manufacturer make a product without a tinge of yellow in it?

Mr. EDSON. I should think he could. Mr. Jelke said so yesterday, and there it is [indicating].

The CHAIRMAN. Now, just one word as to the interest of the poor man in this proposition. Mr. Walker told me, I believe, that he paid 20 cents a pound in Chicago for these samples of oleomargarine that are on the table.

Mr. EDSON. I think that is right.

Mr. WALKER. I paid 20 cents a pound for the lightest shade of yellow. I paid 27 cents a pound for the higher shade of yellow.

The CHAIRMAN. Do you know the price at which butter retailed in Chicago on the same day?

Mr. WALKER. Thirty-five cents, and 38 cents for creamery butter.

The CHAIRMAN. So for the lighter shade of oleomargarine there was a difference of about 15 cents a pound, and for the brighter yellow shade there was a difference of some 8 or 9 cents a pound?

Mr. WALKER. Yes, sir.

The CHAIRMAN. So that, as a matter of fact, if oleomargarine is sold as oleomargarine, a man who is willing to buy it can save money by doing so, can he not?

Mr. WALKER. Oh, yes.

Mr. STANLEY. Was the tax paid, too?

Mr. WALKER. It had all paid a quarter of a cent, and was all passed by the United States Government as uncolored.

Mr. STANLEY. It all paid how much?

Mr. WALKER. A quarter of a cent a pound. The purpose that I had in bringing that here was to illustrate that the color does give their product value, and at the same time, as was acknowledged here yesterday by the gentleman who manufactures it, that the higher the

color the poorer the quality is. It was my judgment, from being in the butter business for twenty-two years, that the higher color there was the poorer the article, yet when I bought it I paid 7 cents more for it.

The CHAIRMAN. And yet, because it more nearly resembles butter, it brings a higher price?

Mr. WALKER. Yes, sir.

The CHAIRMAN. In spite of that fact, however, it is genuinely and honestly sold for what it is at a price from 10 to 15 cents lower than butter?

Mr. WALKER. That is so.

The CHAIRMAN. So it would seem——

Mr. EDSON. The one pound was, but not the other. There was one at 27 cents.

The CHAIRMAN. I say, that is 10 cents lower than for the same quality of butter. So it would seem to make some difference to the poor man.

Mr. HOWELL. Is there any uncolored oleomargarine sold in the market?

The CHAIRMAN. Mr. Edson is obliged to leave to catch a train.

(At this point Mr. Edson left the room.)

The CHAIRMAN. Mr. Walker, will you be kind enough to answer the questions of the gentlemen?

Mr. WALKER. Certainly.

Mr. BEALL. Those packages to which you refer were bought at retail in Chicago?

Mr. WALKER. Yes, sir.

Mr. BEALL. By you?

Mr. WALKER. Yes, sir.

Mr. BEALL. How were they wrapped?

Mr. WALKER. In these packages.

Mr. BEALL. Do you mean in those pasteboard packages?

Mr. WALKER. Like these others here. [Indicating.]

Mr. BEALL. Marked "oleomargarine?"

Mr. WALKER. They are given a brand here. Buttercup was the lighter shade, and Glendale was the higher shade.

Mr. BEALL. What are the markings on those packages? Is there anything to indicate that that is oleomargarine?

Mr. WALKER. Yes, sir. The word "oleomargarine" is on it.

Mr. BEALL. The word "oleomargarine" is plainly printed on the packages?

Mr. WALKER. Yes, sir.

Mr. BEALL. And those packages were sold as oleomargarine?

Mr. WALKER. Yes, sir; I bought them as such.

Mr. BEALL. Do you know whether or not when they are sold at retail in Chicago at all they are always sold in those wrappers?

Mr. WALKER. If you want to know whether there is any oleomargarine sold as creamery butter there, I can say that I did not endeavor to make that investigation, but that there are undoubtedly tons and tons of it sold there as creamery butter is evidenced by Judge Landis sending a few of them to the penitentiary here a few weeks ago.

Mr. BEALL. Was there anything connected with the sale of that butter that would indicate any attempt to deceive the purchaser as to what he was getting?

Mr. WALKER. This was not butter, but oleomargarine.

Mr. BEALL. Well, oleomargarine.

Mr. WALKER. Now, what is the question?

Mr. BEALL. Was there anything connected with the sale of it, or any appearance of the package and wrapping of it that would tend to deceive the purchaser as to what he was getting?

Mr. WALKER. No, sir; not this.

Mr. LEVER. Do you object to the sale, in that manner, of that kind of stuff?

Mr. WALKER. I do not object to oleomargarine being sold as oleomargarine.

Mr. LEVER. Colored or uncolored?

Mr. WALKER. Oh, yes; I make quite a distinction there.

Mr. HOWELL. What price does the colored oleomargarine bring in that market which pays a tax of 10 cents a pound?

Mr. WALKER. There is not any. I doubt whether there has ever been a pound on the Chicago market that paid 10 cents a pound to the Government.

The CHAIRMAN. Mr. Flanders, I did not mean to take the matter out of your hands, but simply wanted to get the information from Mr. Walker.

Mr. FLANDERS. I am glad you asked the question, because I wanted to bring out the distinction between the price of the colored and uncolored goods, showing that if the poor man got the uncolored goods he had to pay the penalty for that.

Mr. BURLESON. Where are the uncolored goods here?

Mr. WALKER. I do not know. Here is some of it, here. [Indicating.] I stated that I did not attempt to buy the uncolored. I purposely bought the colored. I bought the lowest-priced product that had a tinge of yellow, and the highest-priced product. There are plenty of white oleos, however. There is oleo produced by other manufacturers that is absolutely white.

Mr. FLANDERS. I now call on Mr. W. F. Schilling, of Minnesota. Mr. Schilling is president of the Minnesota Dairymen's Association—the largest dairy association in the United States.

STATEMENT OF MR. W. F. SCHILLING, OF NORTHFIELD, MINN.

Mr. SCHILLING. Mr. Chairman and gentlemen, I only want to take up a little of your time. In the first place, I want to correct a statement made yesterday by the author of the bill under consideration regarding our industry in this country. He stated that there were 357,000 dairy farmers in America, or men dairy farming, or engaged in dairying. I want to say that the statement is very erroneous, regardless of where it came from, because there are in the State of Minnesota alone over 100,000 men patronizing the creameries of Minnesota. That does not include any of the men who are milking cows to furnish milk or cream to the cities, or any of those who are patronizing the central plants, who are considerably more, and would amount to almost half the number he accredits to the dairy farmers of this country.

Mr. BURLESON. You are familiar with these figures. They are Census figures.

Mr. SCHILLING. They are absolutely false, wherever they come from, because I take this from the reports of the creameries of the State of Minnesota—the reports of 840 creameries. You can figure that out, or anyone can figure it out, that it is a gross misrepresentation to the dairy industry of America to say that there are only 357,000 farmers engaged in it, when there are almost half that number within our own State, and more than that in the States of Wisconsin, New York, Illinois, and Iowa.

Mr. TAWNEY. Pardon me—there are over 12,000 patrons of creameries in my congressional district in Minnesota.

Mr. SCHILLING. Thank you, Mr. Tawney.

I want to say, further, in this regard that the creamery industry, which was represented here yesterday to be so small, is second only to corn in the United States. According to our last reports, the dairy industry is the largest in the United States to-day, gentlemen, with the exception of corn. I wish to have that statement go on record here.

As the president of the Minnesota State Dairymen's Association, and as a dairy farmer who is actually engaged in milking cows every day in the year (with the exception of the time when I have had the pleasure of meeting with you people here, which is the first time in the thirty-seven years of my life), I want to say this: We dairymen do not wish any subsidy at your hands or anybody else's, where open competition and fair competition enters into the manufacture of our products. But we do want honest competition, and we can not get honest competition where there is a substitution. That is all I have to say in that regard, gentlemen, and that is enough. We believe that we can stand our own ground, although, as you know, dairying is an irksome task. You can not go out and hire men to work in the dairy for \$30 a month if they can get positions in town for \$50. You know that all over America; you know it in the East, and you know it in the West.

What has driven us to dairying? Is it a matter solely of making the money that we can at it? Partially that. But there is another thing that we consider, that you have heard so much about, that was discussed at the conservation congress which met in St. Paul recently. You know, gentlemen, that this country is selling the wealth of her soil faster than any other country has ever done, as a result of the greed for gold. Where the men who went to the Red River Valley got 33 bushels of wheat to the acre some thirty years ago, at the last threshing we considered it a good crop to get 18 bushels to the acre, and 12 bushels per acre on the average would be high for the Red River Valley to-day.

I wish I were so fortunate as to live in a country where I had farmed one crop for fifty-six years and had never noticed any depreciation in the soil. There is no place under the sun where that can be done except in the home district of Congressman Burleson, according to the reports as to cotton grown in the South.

Mr. BURLESON. Oh, no; you are badly mistaken about that. That is true throughout the black, waxy soil region of Texas. They never imported or used a pound of fertilizer in their lives.

Mr. SCHILLING. I am speaking of that territory only. I have something further that relates to that, briefly.

Mr. BURLESON. Do you know about that region? You do not dispute that fact?

Mr. SCHILLING. No; I do not. I do not know about it. I say, with the exception of that region; I excepted that region.

Mr. BURLESON. I am sorry you do not live down there.

Mr. SCHILLING. I believe I could make more money dairying down there than you could raising cotton.

I want to say that thirty-five years ago the little country of Denmark was on the verge of bankruptcy. They took the dairy cow to restore their soil; and what is the condition there to-day?

You know the granary of the world only a short time ago was in the Mohawk and Genessee valleys of New York. What is the result? They have sold that fertility at the rate of \$7 per ton when they sold their wheat; and to-day they are buying it back in the form of cotton-seed meal at the rate of over \$30 a ton, and have got to fertilize almost every foot of soil artificially in order to grow crops on their land. They have taken to dairy cows; and the dairy cow has been the salvation of New York.

What has become of the West? Southern Minnesota, in which I live, is in exactly that condition to-day. And we, the dairymen's association, are endeavoring, through every talk and every action and every paper that we can, to promote that industry, in order that we may conserve for future generations the land that we have to-day, and not be placed in the condition that many of the farms are in the East that you gentlemen all know about.

Those conditions exist in the South, in the cotton belt as well as elsewhere. And we, as dairymen, interested in dairy cattle, breeding and milking cows, believe that the industry of dairying in the South will in the future come back; that the cotton industry will in the future be changed, and that (although Mr. Burleson with his broad acres may not do it), some people will take that land for dairying—and they are going from the North, many of them, and settling that country. They have written me letters asking me to come down there, and saying that it was the mecca of dairying, and that if they could only use the manure that we have in our country they could grow anything, and they could pasture their cattle the year around, where we have to house them.

Let me just add a little note for our chairman's benefit. If he wishes to make a fortune on potatoes, I will say to him that I was in Millelacs County, Minn., two weeks ago, and addressed a gathering of farmers there; and I was offered potatoes by the carload for 8 cents per bushel. There is a man in this room to-day that will give him a carload of them free of charge if he will pay for the horses and the time of moving them onto the car.

The CHAIRMAN. I hope the Washington dealers in potatoes will take notice of that. [Laughter.]

Mr. SCHILLING. I have a little message here from the department of agriculture of the Agricultural and Mechanical College of Texas. It is dated College Station, Tex., April 12, 1910.

The dairy industry in Texas is developing at a very rapid rate, and I would regret exceedingly to see it given a backset at this time by the removal of the tax on colored oleomargarine. The Texas dairymen consume an enormous quantity of cotton-seed meal in feeding their cows, and I believe that I am correct in saying that the small amount of cotton-seed oil which could be used in the manufacture of oleomargarine would be a mere pittance compared with the value of the meal consumed by the dairy cows. Cotton-seed oil has no stronger friend than myself, and I have always advocated and practiced its use for cooking purposes, and I believe it is much better

for it to win merit and approval under its own colors than to attempt to foist itself upon the public as a sham and an adulterant.

Texas has built 50 creameries within the last four years, and I believe the total number of creameries in the State will increase to over 100 before the present season closes. These creameries are of great financial benefit to the people of this State, creating an interest in diversified agriculture, and offering the farmer an opportunity to provide himself with a steady income throughout the entire season. This in turn benefits the merchant and the manufacturer. The dairy interferes in no way with the growing of cotton, corn, or other farm products; in fact, I believe that Texas will grow a larger acreage of cotton this year than ever before, and the farmer who has his steady income from month to month from his dairy account will not be required to spend the larger portion of the returns from his crop in paying rent and store bills.

I recently made an estimate of the number of people patronizing creameries in this State, and found the number approximately 8,000. This, of course, represents only a small fraction of the dairy interests of the State, as a very large amount of butter is made on the farms and sold locally.

The farmers, for the most part, have improved their stock by the use of Jersey males, and the value of the dairy cattle in this State is very great. A good grade Jersey cow readily sells for from \$50 to \$75 and pure breds for \$100 to \$150 each. The removal of the tax on colored oleomargarine would cause a depreciation in the value of this stock of at least 25 per cent.

If any benefits whatever have accrued to the dairy interests of this country from the tax on oleomargarine, the Texas farmer is just beginning to receive his share of the same; and it seems a very inopportune time, from his standpoint, to let down the bars and permit the colored substitute to come in competition with the choice article of butter he is in position to produce.

Respectfully, yours,

CHAS. H. ALVORD,
Professor of Agriculture.

I have another letter referring to that which I wish to leave with you. This is a letter written by the Refuge Cotton Oil Company, of Vicksburg, Miss., manufacturers of cotton-seed oils:

To the EDITOR OF SOUTHERN FARM GAZETTE,
Starkville, Miss.

I may say that the Southern Farm Gazette, of Starkville, Miss., is probably the best known of the southern agricultural journals.

DEAR SIR: I respectfully ask your attention to and consideration of the following remarks in regard to the federal tax of 10 cents a pound on colored oleomargarine.

This tax was originally imposed at the instigation and for the benefit of the dairy interests on the plea, first, to prevent the manufacture of an unwholesome article of food and, second, to prevent a mischievous and illegal imitation of butter. The first has been fully exploded by the most distinguished chemists of the country, including government experts, who have testified that oleomargarine, colored or uncolored, is a healthy and nutritious article of diet, and the second plea is fully covered by the pure-food laws, so the present tax is neither more nor less than a simple discrimination in favor of one industry and against another.

The very high price of butter, which is a hardship on the wage-earner and other men of moderate means, and which is largely due to the tax on oleomargarine, is now forcing this subject to the front, and efforts are being made to have this tax either modified or abolished.

As cotton oil is quite a large ingredient in the manufacture of oleomargarine, the cotton-oil industry are very naturally supporting the movement for the abolition or reduction of this tax, and through the Interstate Cotton Seed Crushers' Association are actively bringing all the influence they possess or can get to bear on Congress.

The Secretary of the Treasury has represented to Congress that since the tax was raised from one-fourth of a cent to 10 cents, all revenue from this source has practically ceased, whereas the Treasury used to derive a revenue of several millions. It is, I believe, an axiomatic Democratic doctrine that all taxes that produce no revenue are ipso facto iniquitous. There is absolutely no more reason for taxing oleomargarine than there is for taxing butter. The dairy interests of the North and West are large and powerful, while the cotton-oil interest is practically nonexistent there. Per contra, the dairy interest in the South is insignificant, while the cotton-oil interest affects nearly every farmer in the South. The dairy interests of the North and West are the sole beneficiaries of the oleomargarine tax, while every consumer in the entire

country, every farmer in the South who raises cotton, every oil mill in the South—900 of them, with their employees and laborers—are the sufferers.

This is written, not for publication, but to enlist your aid in the cause by writing emphatic articles in your editorial columns. If you do so, kindly send me copies, and oblige,

Respectfully, yours,

E. M. DURHAM,
President The Refuge Cotton Oil Company,
Member Executive Committee
Interstate Cotton Seed Crushers' Association.

The reply of this editor regarding this communication is as follows:

APRIL 16, 1910.

Mr. E. M. DUNCAN,

President Refuge Cotton Oil Company, Vicksburg, Miss.

MY DEAR SIR: Replying to your letter of the 14th instant, we beg to state that the editor of this paper certainly will not write articles, "emphatic" or otherwise, in support of any such "hoary fraud" as oleomargarine. It was first and is still sold to consumers under false colors. It has always masqueraded as butter, and is still doing so. It never has been put on the market as an honest food product and is still sold to consumers as butter, which is essentially fraudulent. We know it is a wholesome food product, and dairymen have never denied that fact, your statement to the contrary notwithstanding. They have merely claimed that butter is a more wholesome product.

The whole question is that it is not put on the market and sold to consumers for what it really is in an honest way, and when sold as oleomargarine, per force of law, it is still given to the public as butter by hotel and restaurant keepers, which is also fraudulent and dishonest. It is a wholesome food product and has a legitimate place among our foodstuffs, but has never filled that place. Anyone has a right to buy oleomargarine if he wants to, but no one has a right to sell him oleomargarine as butter. This is the whole question, and if oleomargarine had been sold honestly there never would have been objection to it; but the fact stands incontrovertible that it has not and is not now being offered to consumers in an honest way.

It is a principle of jurisprudence that extraordinary measures are justified to control or prevent great frauds. This is exactly what the 10-cent tax on oleomargarine is. I grant you it is wrong in general principle; but I favor keeping this tax on it so long as it continues to masquerade as butter, as one among other means of making the manufacturers and vendors handle it honestly.

Of the 95,000,000 pounds of oleomargarine and butterine made in 1909, about 5 per cent paid the 10-cent tax; but 75 per cent of it was colored. This was done by the use of palm and other oils which gave it the desired color, but did not come within the scope of the present defective law. I am in favor of amending the law so that it will take in this 75 per cent of the oleomargarine which is colored, and all that may in any way be colored in imitation of butter.

Now, as to your arguments:

(1) You state the high price of butter is a hardship on the wage-earner. What are the facts? Butter does not sell on an average for more than oleomargarine. Oleomargarine has increased in price as much as butter. Only the best butter is higher priced than oleomargarine. The 10-cent tax has not materially increased the price of either butter or oleomargarine, for only about 5 per cent of all the oleomargarine and butterine made pays the 10-cent tax.

(2) You state that "cotton oil is quite a large ingredient in the manufacture of oleomargarine." This is not correct. High-grade oleomargarine, that which pays the tax, contains but little cotton-seed oil. The oleomargarine and butterine made in 1908 contained 11.2 per cent of cotton-seed oil. The oil used in this way does not constitute as much as 1 per cent of the cotton oil produced.

(3) Your further statement that the "Dairy interests in the South are insignificant" is erroneous. Let us compare the dairy and cotton-oil interests of the South.

The total value of the cotton-seed oil used in the manufacture of oleomargarine in 1908 is \$499,458. The value of the butter produced in 11 principal cotton States is one hundred and seven times the value of the cotton-seed oil used in oleomargarine. The value of the cotton-seed oil used in oleomargarine in 1908 was 0.07 per cent of the total value of the cotton crop, including lint and seed, and for each acre planted in cotton the value of the oil used in oleomargarine was 1½ cents.

For this small interest in oleomargarine you are asking that the dairy interests and the development of greater soil fertility throughout the South be made to suffer the unfair and fraudulent competition of oleomargarine masquerading as butter. The interest of the cotton-oil producers in supplying meal to dairymen and in building

up dairying and other lines of live stock-feeding, and thereby in creasing soil fertility, is a million times greater than its interests in the small amount of cotton oil used in the fraudulent product, oleomargarine.

The interests of the South are in developing a live-stock industry, for only in this way can our soils be built up and the whole country made prosperous, and it is a short-sighted policy for the cotton-oil interests to antagonize the best means of developing agriculture, for the mere pittance received from marketing less than 1 per cent of its oil, to masquerade under false colors in competition with an honest farm product.

We ask the privilege of using this correspondence, including your letter, for publication.

Yours, very truly,

PROGRESSIVE FARMER AND GAZETTE,
TAIT BUTLER, *Editor*.

The CHAIRMAN. Mr. Schilling, will you state briefly the chief provisions of the Minnesota law?

Mr. SCHILLING. No; I can not. As I said before, I am simply a farmer, doing everything I can to produce butter as cheaply as I can, and I am not familiar with either the national law or any of the laws under consideration by you.

The CHAIRMAN. We are very much obliged.

Mr. BURLESON. One minute, Mr. Schilling. Do I understand you to say that you are in favor of continuing this tax upon colored oleomargarine?

Mr. SCHILLING. Until we have something better, Mr. Burleson. If you can show me something better, I should greatly favor it.

Mr. BURLESON. Do you think that the 10-cent tax on colored oleomargarine tends to prevent the fraudulent sale of oleomargarine?

Mr. SCHILLING. As I told you before, I know nothing whatever about the law as to its phases, excepting what I have heard since I came here. I came here on invitation, to learn and to hear. I am not here to defend or to condemn the present law. It is not my province as a dairyman to do that. We are not seeking the destruction of the present law. Therefore I would not care to discuss that or to have anything to say relative to it.

Mr. BURLESON. If means can be found that will prevent the fraudulent sale of oleomargarine or minimize the fraudulent sales of it below what are now taking place under the present law, you would not still be in favor of continuing a tax of 10 cents a pound on colored oleomargarine, would you?

Mr. SCHILLING. I should have to seriously consider those means first, Mr. Burleson.

Mr. TAWNEY. Mr. Schilling, let me ask you a question. Is it not a fact that the 10-cent tax on colored oleo, and the quarter of a cent tax on uncolored oleo, preserve the color distinction between that which is oleo and sold as oleo, and that which is oleo and sold as butter? Is not that the effect of the 10-cent tax?

Mr. SCHILLING. It is supposed to be, Mr. Tawney.

Mr. TAWNEY. To preserve the color distinction?

Mr. SCHILLING. It is supposed to be; yes, sir.

Mr. TAWNEY. And therefore afford the producer of honest butter the protection he is entitled to in the matter?

Mr. SCHILLING. It is supposed to be.

Mr. LEVER. It is supposed to be; but is it? Does it have that effect?

Mr. SCHILLING. That remains, I believe, for the courts and others to decide.

Mr. LEVER. Do you adopt the statement of facts that you read from a moment ago as your own? Do you indorse them?

Mr. SCHILLING. Regarding what?

Mr. LEVER. The entire statements made there by that editor, whoever he was, as to the violations of the law? I do not remember his name.

Mr. SCHILLING. Why, I do not know; I told you, Mr. Congressman, that I do not know. I told you that at the start; and I further stated that this is a matter that I am representing only from the standpoint of a man who knows how much it costs to make good butter from the standpoint of the butter proposition solely.

Mr. TAWNEY. What do you estimate to be the cost of producing a pound of butter?

Mr. SCHILLING. The cost of producing a pound of butter, on an average, in Minnesota, is something over 22 cents per pound for the farmer. That does not include the manufacture, the putting it up, or the selling it East. That is about what it costs.

Mr. JELKE. Is it not a fact, Mr. Schilling, that everything that goes into the production of oleomargarine also comes from the farm?

Mr. SCHILLING. Yes, sir; but it is paid for to the farmer at the rate of never to exceed 5 cents per pound; and they have discontinued the business of raising beef cattle for the purpose of having the fats which used to be thrown away put into the oleomargarine product, and have gone into an honest business, or a business that they think they can make something out of.

Mr. JELKE. Then, Mr. Schilling, if it costs 22 cents a pound to produce butter, and if there can come from the farm a commodity which can be used as a substitute for it at a very much less cost, is there any reason why it should not be produced and sold in the open market for what it is?

Mr. SCHILLING. I do not just get your meaning. State it again, please.

Mr. JELKE. I say, if it costs 22 cents a pound to produce butter and if a wholesome and nutritious substitute, all of which comes from the farm, can be produced at a very much less cost and honestly sold in the open market, is there any reason why it should be taxed or prohibited?

Mr. SCHILLING. I shall have to answer that question in this way: In the first place, the beef animal that produces that is never sold at a rate to exceed 5 cents per pound off of the farm. The majority of that carcass goes into a product that is sold for a higher price than anything else that you can find on your bill of fare. Beef comes higher than anything you can find on your bill of fare here in Washington, to-day, I find. The farmers are curious to spend their money; I went in one of the restaurants here, and I found out that a good steak was three dollars and something down at Harvey's the other day. I did not take one, because probably I could not have gotten home if I had. But the other matter is primarily refuse matter. The farmer himself does not get enough from raising beef in the State of Minnesota to pay the cost of raising it at 5 cents per pound.

Mr. JELKE. But he gets more, does he not, Mr. Schilling, if part of his beef is sold to the oleomargarine industry than he would if it were wasted?

Mr. SCHILLING. No, sir; he does not. In the last twenty years of my experience and my observations I have noted that; and to-day you can buy beef on the South St. Paul market, in the stock yards there, practically as cheaply as you could at that time. Now, I say, 5 cents is the limit; because a feeder who fed pretty nearly 300 steers right across from my farm got that, and boasted to me that he got a lot. I said to him: "Why, you are not making the pay for the work of the man who fed those steers." "No," he said, "but the hogs that run behind them, that eat the manure, paid me, and that is enough." There is the proposition of beef. You get the refuse of beef; that stuff that he can not eat goes to make a product that is sold for a much higher price than it is actually worth.

Mr. LEVER. Mr. Schilling, are you in favor of the continuance of this 10-cent tax for the reason that it protects the dairyman against the competition of oleomargarine, or are you in favor of its continuance because you believe it protects the consumer against a fraud?

Mr. SCHILLING. Both, sir, until we can get something better.

Mr. LEVER. All right.

Mr. BEALL. Do you object to the sale of oleomargarine in the form it appears there as oleomargarine [referring to samples on the speakers' table]?

Mr. SCHILLING. If the man who went there to purchase it was told by the man from whom he purchased it, "That is oleomargarine and not butter that I am handing you."

Mr. BEALL. It comes in in those pasteboard boxes, plainly marked.

Mr. SCHILLING. Yes; but where that stuff is dealt out more largely than anywhere else is to the man who can not see what he is getting. The man who purchases that is almost always so illiterate that he can not see what he is getting. He asks for butter and gets what is handed to him.

Mr. BEALL. You are asking that for the illiterate man, who can not tell from what package whether it is butter or oleomargarine?

Mr. SCHILLING. I say that I emphatically prefer a color distinction.

Mr. TAWNEY. What percentage of the oleomargarine is colored, tax paid, and sold in packages?

Mr. SCHILLING. About 95 per cent.

Mr. TAWNEY. Of the oleomargarine?

Mr. SCHILLING. About 95 per cent of it is colored and sold, as I understand it.

Mr. TAWNEY. Sold as butter?

Mr. SCHILLING. Sold as butter.

Mr. TAWNEY. Yes; but I say, what percentage of it is sold as oleomargarine? That would leave only 5 per cent.

Mr. SCHILLING. Only 5 per cent that is paying the tax.

Mr. TAWNEY. Only 5 per cent of the oleomargarine that is manufactured and colored?

Mr. SCHILLING. That is paying the tax.

Mr. TAWNEY. In packages indicating that it is oleomargarine?

Mr. SCHILLING. Correct.

Mr. STANLEY. Mr. Schilling, if all existing laws were repealed, and oleomargarine were sold without any restriction whatever, except that it should be marked and a penalty fixed for failure to notify the public of the contents of the package containing it, what effect do you think it would have on the price of butter?

Mr. SCHILLING. We can not say that; it has not been tried.

Mr. STANLEY. I mean, what effect do you think it would have? If it did not affect the price of butter, it would not materially affect the dairy interests, would it?

Mr. SCHILLING. Why, I could not say; it would be impossible to say that.

Mr. STANLEY. The measure of the injury to your interest would be the measure of its effect upon the price of butter?

Mr. SCHILLING. With your indulgence for just a minute, I should like to state just what the farmers think of this proposition. I meet probably more of them than anyone here. They wonder what in the world this all means; and I must confess that I told a gentleman sitting over here by me to-day that this was the greatest education I had ever received in all my life. I wish to gracious that the farmers of the State of Minnesota could be here. They can afford to send a few of us down here.

Mr. BURLESON. The farmers of Minnesota need education, do they?

Mr. SCHILLING. In some lines, yes; and you people in the South will need it in another line before many years, if you do not stop this continuous one-crop system.

The CHAIRMAN. I wish you would finish that sentence. You were just stating that you wished the farmers generally could come down here.

Mr. SCHILLING. I wish they could come down here and hear both sides of this.

The CHAIRMAN. They would understand, then, how embarrassing the problem is to the committee.

Mr. SCHILLING. But, you know, it is a hard proposition. They wonder why it is that they have got to keep fighting, fighting, fighting every year something that comes into competition with the man who keeps a cow and raises her and feeds her and cares for her all the year, and gets the pittance of \$7 and the manure for his labor.

The CHAIRMAN. They would understand it a good deal better if I should bring down here a basket full of petitions containing thousands of names from the workingmen in the cities demanding the repeal of this tax. It would help them to understand the embarrassment under which this committee labors.

Mr. SCHILLING. They can hear both sides of it; but I should like to have them placed in a position where it can be discussed. And I want to say to you, gentlemen, that I feel mighty sorry for you, as Congressmen, to have to take this. If there are a set of men in the Government anywhere that earn their salaries, I think it is the Congressmen who sit here and listen to this.

The CHAIRMAN. Mr. Flanders says he has one more witness who must go to-night, and who will take only about five minutes. I will request the gentlemen to refrain from asking him questions, because we must bring this hearing to a conclusion.

Mr. FLANDERS. Mr. Chairman, I have the pleasure of presenting now Mr. Gilbert Tucker, of New York, editor of the Country Gentleman, the largest agricultural paper in the country.

STATEMENT OF MR. GILBERT TUCKER, OF NEW YORK CITY.

Mr. TUCKER. Mr. Chairman and gentlemen of the committee, I shall confine myself at this time (and endeavor to say what little I have to say in the fewest possible words) to the statement of three axioms which appear to me to bear upon this question—propositions which need no proof, and which will not be disputed by any sane and fair-minded man, whatever his interest be, be he dairyman or oleomargarine maker, or what not.

The first is that all laws on this subject ought to be so constructed as to insure and permit absolutely fair competition between the two products.

I am quite sure my friends, the representatives of the new product, will agree with me as to that.

The second axiom is that where there can be substitution, fair competition is impossible.

As an illustration: You are traveling on a Pullman car, and you wish to buy a sandwich. You are one of 500,000 or 1,000,000 other men—I do not care how many it is. If it is possible, when you prefer butter, to give you oleomargarine, there can be no competition between those two products. If they are so absolutely different that you can tell the difference at sight, there is fair competition. I think, gentlemen, that statement is axiomatic—that where substitution is possible, fair competition is impossible; and therefore all this whole structure of law should be so erected as to render dishonest substitution impossible.

Mr. BURLESON. Would you be in favor of—

Mr. TUCKER. Will you permit me to finish my argument? It will be very brief, and it all hangs right together. Then I will be glad to do my utmost, as best I may, to answer the puzzling questions that await me.

Now, gentlemen, the third proposition (which is equally axiomatic, as I believe, equally impossible of dispute, and needing no proof) is that the only way to prevent substitution, and therefore to guarantee fair competition between the two products, is to forbid absolutely that the oleomargarine shall have any shade whatever of yellow.

Yellow, sir, has been the trade-mark of butter for centuries. Prior to the time when oleomargarine was invented no butter man on earth would have objected to the absolute prohibition of coloring butter. He would not have cared a rap. It would have saved him bother. But now, sir, the situation is changed. We now need that color not only to keep the product uniform throughout the year, but to distinguish it from oleomargarine. And we demand of the law-making power that the dairyman shall be protected in that trade-mark; that he shall have the yellow color, which he always has had, which has now become a distinctive mark of his product as against the other product; that it shall not be invaded by the other product, because if it is invaded fair competition is no longer possible, and that is all there is about it.

A good deal has been said about the honest sale of oleomargarine. I do not care a rap about the honest sale of it. The purchaser may be just as dishonest as the fraudulent seller; and, mind you, the purchasers constitute only a minute proportion of the eaters, the con-

sumers. Has that ever occurred to you? One man in a great restaurant will be the purchaser for 5,000 eaters. The question is the protection of the eater—the eater, the eater, from first to last. And that protection can never be given, and fair competition can never be given, as long as the manufacturers of oleomargarine are allowed to infringe what has become the trade-mark of butter.

That is all I have to say, gentlemen.

Mr. BURLERSON. I was going to suggest that in order to avoid substitution and make it absolutely impossible, the butter people could make their butter pink. Then, of course, there would not be any substitution of oleomargarine for it.

Mr. TUCKER. Yes; and if they made it pink, the oleomargarine people would make their product pink, p. d. q. If the cow, eating green grass, gave green butter, the oleomargarine people would have made their product green. And yet they stand here and tell us it is not made yellow to imitate butter.

Mr. BURLERSON. That is your opinion about it.

The CHAIRMAN. I think we shall have to adjourn, gentlemen. Will the gentlemen representing the different interests wait here a moment? The committee will stand adjourned.

(The committee thereupon adjourned.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Friday, April 29, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. The committee will come to order. Who is to be heard first this morning?

Mr. McCARTHY. Our first witness, Mr. Chairman, is Mr. Henry C. Pirrung, president of the Capital City Dairy Company, of Columbus, Ohio. We are going to ask Mr. Pirrung to bring out before the committee, for the information of the committee, the practical methods which are employed in the manufacture of oleomargarine.

**STATEMENT OF MR. HENRY C. PIRRUNG, PRESIDENT OF THE
CAPITAL CITY DAIRY COMPANY, OF COLUMBUS, OHIO.**

Mr. PIRRUNG. Mr. Chairman and gentlemen of the committee, in order to perhaps more forcibly illustrate the factory conditions existing in the manufacture of oleomargarine to-day, it will be necessary to state the reason why the present conditions are in force and in existence. It might seem to this committee and to those interested that perhaps my explanation of the factory and its conditions and the manufacture of oleomargarine may be exaggerated, but I assure you, gentlemen, that no exaggeration will be attempted and no departure from the truth.

Mr. HAWLEY. Are you a manufacturer of oleomargarine?

Mr. PIRRUNG. I am, and have been for twenty-two years, a practical manufacturer. Years ago—we will say in 1884, 1885, and 1886—when the first law was attempted and enacted, the cry by the opponents of oleomargarine was the debasement of materials, the inferior materials we used, the slovenly methods of manufacture; in

fact, everything, even fraud, was charged at that time. Prominent amongst the illustrative papers was the Police Gazette, which at that time had large pictures showing the dead animals that were used in the manufacture of oleomargarine. It was also stated and illustrated that skimmings of sewer drops in New York were used in the manufacture of oleomargarine, that the basic materials came from the garbage can, and every other vile and putrid matter that could be used. Now, of course, in that sense we must also state that the opponents of oleomargarine stated that this product manufactured from all these materials, which they only charged and never proved were used, was made in imitation of butter and to take the place of butter, and therefore they wanted it distinguished from butter.

Now, that may be rather a strong statement, but it foretells why the manufacturers of oleomargarine sought to avert every condition that would lead to further criticism. I have been told, Mr. Chairman, that some gentlemen will take up the manufacture of the raw materials entering into oleomargarine, and I have also been told that you gentlemen do not want duplication of remarks or items pertaining to another's talk. I will pass the manufacture of the raw materials and enter on the manufacture of oleomargarine as conducted by the principal manufacturers of the United States, in whose factories I have had the pleasure of visiting, so that generally the statements I make apply to the larger factories of the United States as well as our own.

In order to build a perfect word picture of an oleomargarine factory, I am going to take you to Columbus, Ohio, where our factory is located. First of all, our factory is located on the very outskirts of the manufacturing district, surrounded, with but one exception, by pure country air. There is just one factory building beyond ours. We are not located in the heart of the city; we are located where we have an enjoyment of all of the proper air facilities that should be necessary in the manufacture both of butter and butterine. Our factory is a five-story-and-basement building, constructed of white brick—or rather, of brick the color of buff—and is 150 feet wide by 275 feet long, a pretentious building, so that everyone who passes along may read the sign above and on the topmost part of our building, "Manufacturers of oleomargarine."

In the factory on the fifth floor we will begin with the material, which has been purchased from the larger packers of the United States, consisting of oleo oil, neutral and cotton-seed oil, and where we stir and arrange for the melting of these goods to a liquid consistency for the purpose of churning. The various materials are placed in large tanks heated with hot water, of the jacketed-kettle pattern, and these materials in our factory are only melted, and not treated in any other way except as we get them from the large packing houses.

On the fourth floor of our factory is the cold-storage department and dining room; but following the materials from the fifth floor after being melted, into the third floor by gravitation, first we find a number of churns on a churning platform, which, for the sake of argument here, we will call agitators, because they are not at all similar to butter churns. First, in these churns we use the milk and cream which has been obtained from our creameries, five in number, which we own and operate ourselves. We had to do this because the milk and cream which we purchased at large or at random was of

such a nature that we could not rely upon its uniformity. This milk and cream, for the purpose of shipping from the rural districts into Columbus, is pasteurized at a temperature of about 180° F. After putting the milk and cream into this agitator, it is churned or agitated until it begins to form butter. The churn is then stopped, and from the fifth floor, by gravitation, flows the proper quantity of oleo oil and of neutral and of cotton-seed oil, into this receptacle. Then again the agitator mixes this entire emulsion until it is thoroughly mixed and thoroughly agitated, this operation being, we will say, of about fifteen minutes' duration.

The CHAIRMAN. Will you tell us what neutral is? You used the term "neutral." Will you tell us what it is, so that we may understand what you refer to?

Mr. PIRRUNG. Yes; neutral is the oil product of the leaf of the pig. The leaf of the pig is first chilled and then it is hashed or cut into cubes of about an inch or 2 inches. The purpose of chilling, as you will understand, is so that it may be cut into cubes. It is then melted in its cubed condition and brought to a temperature of about 180 to 190 degrees. During the melting process the agitator stirs this neutral continuously in order to bring about the proper melting of the oil from the tissue and fiber. Then it is allowed to stand for a few minutes, and a shower bath of salt is hastily sprinkled over this in order to carry the tissue and fiber and extraneous matter to the bottom, whereon the pure oil of the pig remains on the top. It is then siphoned from the kettle and put into tierces and shipped out for the manufacture of oleomargarine, and thereby the name of "neutral" is attached to it, distinguishing it from the other products of the hog commonly known as lard.

Mr. HAWLEY. Are the proportions in which you mix the neutral and the other elements out of which you make oleomargarine a trade secret?

Mr. PIRRUNG. Not exactly; but proportions differ with the quality of the product manufactured.

Mr. HAWLEY. I wondered what proportion of the product was butter. I understand you put some butter in your oleomargarine.

Mr. PIRRUNG. Chemical analyses usually show that it is about 7 per cent of butter, on the average.

The CHAIRMAN. Do you manufacture this butter before you introduce it into the oleo, or is it manufactured by the churning of your cream and milk?

Mr. PIRRUNG. The 7 per cent that I referred to is churned in the factory, just prior to the adding of the oils.

Mr. HAUGEN. In what proportion is this neutral lard used in the manufacture of oleo?

Mr. PIRRUNG. About 10 per cent.

Mr. HAUGEN. In what percentage is the oleo oil and tallow used? That, I understand, is the part of the stearine.

Mr. PIRRUNG. Yes.

Mr. HAUGEN. In what proportion is that used?

Mr. PIRRUNG. About 65 or 70 per cent.

Mr. HAUGEN. Of the total product, the oleo?

Mr. PIRRUNG. Yes.

Mr. HAUGEN. In Secretary Gage's report it shows that only 4,000,000 pounds were used in the product of 80,000,000 pounds, and 31,000,000 pounds of this neutral lard were used.

Mr. PIRRUNG. What year was that report for?

Mr. HAUGEN. It is the report of June 30, 1900.

Mr. PIRRUNG. I can easily explain that by saying that prior to the enactment of the law of 1902 we used a lesser proportion of the oleo oil than of the neutral. Now, under the existing law oleo oil predominates.

The CHAIRMAN. Why did you make the change?

Mr. PIRRUNG. Because it added a slight tinge of yellow to our product.

Mr. HAWLEY. What do you mean by the oleo oil?

Mr. PIRRUNG. That is the oil from the beef cattle.

Mr. COCKS. Would you not get a sufficient color if you used a tallow from Guernsey cattle? Would it not make a sufficient color for that purpose? Did you ever try that?

Mr. PIRRUNG. No, sir.

Mr. COCKS. You know that that beef is a bright yellow, so much so that it damages its sale in the market?

Mr. PIRRUNG. I never tried that.

Mr. HAUGEN. In what proportion is cotton-seed oil used?

Mr. PIRRUNG. Five to 10 per cent. Resuming my account of the manufacture, after this product, as explained, has been thoroughly agitated, it flows from the agitator or churn, in a liquid form, into a vat containing ice and water, for the purpose of chilling it to form a grain incident to butter, which is so necessary in order to have the product thoroughly chilled and to have a grain in it so that it will not be sticky, and so that it will spread in a proper manner. Otherwise it would roll about the knife and be a sort of a nuisance, especially on warm bread.

Now, this product after coming from the churn and being put in the ice and water is put upon what we call a salter, salt being added to the product in the proportion that is desired or necessary for certain markets, and then the entire matter is, after being well salted, put into various forms and shapes as desired by the customer, such as prints and rolls, and solid packed in tubs of various sizes, shapes, forms, and so on. This department is very interesting from the fact that, as in all other departments, the product is handled by printers, paddles, and at no time do we allow the animal heat of the human hand to come in contact with that product except where it is absolutely necessary, and that is only at very small, minute times that that is necessary. The idea is, if the heat from the human hand comes in contact with the product of butterine, like that of butter, it becomes slippery and looks disagreeable.

After the product is molded and formed into bricks, prints, and rolls of, in fact, you may say, two or three hundred different shapes and styles, it is sent to a cooling chamber at a temperature of about 20 to 25 degrees, and thoroughly chilled, for the purpose of placing around it a wrapper of cloth or paper, which is all done by skillful, trained employees, and it is placed in wooden packages; and then from there it goes to the shipping department, and there receives the stamp, caution notice, and the various other labels and stenciling required by the Government.

Now, in all of this factory, gentlemen, the most exacting and scrupulous cleanliness is absolutely demanded, and I desire again to say to you that I do not want you to think that I am exaggerating

when I state to you that it is absolutely necessary for every man in our factory to keep his finger nails clean. There is a finger-nail inspection sometimes as often as twice a week, but every week, and a man that is caught the third time with dirty finger nails is dismissed.

Again, and I hope that one gentleman on the committee will not take offense, we allow no man to work in our factory who has whiskers or side burns, or anything of that kind. We demand that our men be shaved twice a week, on Mondays and Thursdays; and if not, they are sent away to be shaved. We also demand that our men divest themselves of their street raiment. They are not even permitted to wear their street shoes. They are given a white suit of duck linen, and with a white cap over the head to protect from falling hair, and there is also a demand and rule that they must be changed twice a week—Mondays and Thursdays.

Mr. RUCKER. They must do what?

Mr. PIIRUNG. They must change those clothes twice a week; and they do quite frequently change them oftener. Those conditions, gentlemen, actually exist in our factory.

Another thing. Our toilet is on the outside of the building, attached to the building but separate and apart, by doors, and it is absolutely necessary and compulsory, with a threat of discharge, that when a man uses our toilet he must wash his hands before coming from there, and there is provided a roller towel and soap attached to a holder, so that they can not carry it away. They are absolutely compelled to wash their hands before coming in to work again.

Mr. STANLEY. May I ask you a question right there?

Mr. PIIRUNG. Yes, sir.

Mr. STANLEY. I presume you are talking about oleomargarine?

Mr. PIIRUNG. Yes.

Mr. STANLEY. Is it not a fact that this product has the same property that butter has of absorbing any impurity in the air?

Mr. PIIRUNG. Yes; it is absolutely butter in that way, in that it throws out its tentacles and absorbs odors and impurities of all kinds.

Mr. BEALL. These conditions you speak of as applying to your factory; do you know whether or not they apply to other factories manufacturing oleomargarine?

Mr. PIIRUNG. Yes; I have learned some facts on that from other factories.

Mr. BEALL. That is a general rule or condition prevailing in other oleomargarine factories?

Mr. PIIRUNG. Yes.

Mr. BEALL. Not peculiar to yours?

Mr. PIIRUNG. Oh, no.

Mr. LAMB. May I say to you that when this bill was up before we visited these factories and found their conditions such as you describe?

Mr. PIIRUNG. I am very glad to hear that. I am glad that my remarks have been authenticated. Now, we have, of course, many other conditions as to cleanliness, which I will beg of you to privilege me to mention. First, our factory is scrubbed from top to bottom every day; every iron, galvanized iron, wooden, tin, or other utensil is scrubbed and scoured with sal soda and water every day. Certain men are charged with the cleanliness of a certain department,

so that I can go to a certain department at any time of the day, and know who has neglected the fulfillment of his duties, or I can compliment them if they have kept it regularly and scrupulously clean.

Many conditions exist regarding our workmen in regard to their physical appearance. If a man, particularly, gets a little scratch or a sore on his hand, he is immediately placed in some department where he does not come in contact with the butterine manufacture. A man is never employed who has any facial eruption or sore or skin disease, or some unattractive appearance physically. Such men are never engaged. Now, we are privileged, I think, to boast about something which not every butter factory in the country does or can boast about, and that is that they have compelled us to use new wooden packages. That, I think, was the only real good thing that the Government ever did to us in the oleomargarine enactment, because it compelled us to use new wooden packages, under penalty of the law and, perhaps, imprisonment. At that time the oleomargarine manufacturers also sought to obviate every other complaint that the butter men could make, and they have begun and have always used new butter gauze. I do not want to say to you, gentlemen, what a great many ladle butter manufacturers used in place of butter gauze, but not at all times was it new and clean. We use now nothing but new parchment paper, lining our boxes with that paper, wrapping each print with new cloth and paper, so that there is a double assurance that the product would reach the customer in a perfect and clean condition. I do not want to dwell too long on this one point. By the way, may I ask if I have any limitation as to time?

The CHAIRMAN. No limitation, except your own judgment, when you exhaust the subject.

Mr. PLUMLEY. I came in late, and I do not know what factory you represent.

Mr. PIRRUNG. The Capital City Dairy Company, of Columbus, Ohio.

Mr. PLUMLEY. Thank you.

Mr. PIRRUNG. We have been in business since 1884, so that we know something of the prior conditions under the law of 1886, as well as something of conditions since 1886.

Mr. HAWLEY. If you have no objection, will you state how much your output is per year?

Mr. PIRRUNG. I think we made nearly 9,000,000 pounds last year.

Mr. LEVER. Right in that connection, do you happen to know how much capital is invested in the manufacture of oleomargarine in this country?

Mr. PIRRUNG. I do not. I could not tell you without computing it.

In addition, and in conclusion with regard to the cleanliness of our factory, we do not allow the use of tobacco in any form in the factory, either chewing or smoking; and I may be a little severe on our workingmen, but I do not permit the use of any indecent or immoral language, cursing or swearing. I will discharge a man without notice if I catch him at that. So the moral as well as the commercial standard of our factory I think is high. Now we come to the point where our product is boxed, and I have heard it admitted that that product is wholesome and clean.

The CHAIRMAN. That has been admitted, and therefore I hope the gentlemen who are appearing before us in the next two or three

days will not spend too much time on that question. It is hardly worth while to spend much time on that.

Mr. STANLEY. Is there any question between the butter people and the oleomargarine people as to the relative nutritive values of the two products?

The CHAIRMAN. Substantially none. It has not been contended for ten years past, to my knowledge, that there is any special ground of complaint against oleomargarine either on the point of cleanliness or of wholesomeness, or on that of nutritiveness, so that everything said on that proposition is practically surplusage, and is merely wasting time upon the part of the gentlemen appearing before the committee and on the part of the committee.

Mr. RUCKER. Mr. Chairman, let me say that I think it is absolutely true, as the chairman states it, and yet some of us who have never read these ancient oleomargarine hearings are very much interested in the statement that the gentleman is making. I myself am profoundly interested, and I am very much gratified to know that his establishment is run under strict regulations, even down to his restriction against the use of profanity.

Mr. STANLEY. It is established, in my opinion, that both are nutritious and both wholesome, and there is an admission that they are practically equal in nutritiousness and wholesomeness, when it comes to their food value. Are you a chemist?

Mr. PIRRUNG. No, sir.

Mr. STANLEY. Do you know whether the nutritive value of oleomargarine is as great as that of butter?

Mr. PIRRUNG. I can state to you, in the language of Professor Chandler, that he said the component parts of butter and butterine are identical.

Mr. STANLEY. That was my impression.

Mr. PIRRUNG. Yes.

Mr. LEVER. Who is Professor Chandler?

Mr. PIRRUNG. I believe he was at Columbia University. He also states, right in that connection, that the component parts of butter and beef are identical. That is almost necessarily true.

Mr. HAUGEN. Now, I do not want the statement you have made to go unchallenged. When we had hearings before this committee before several people testified before the committee that scraps gathered up in restaurants and hotels were used in the manufacture of oleomargarine and that it is not a clean product; that it all depends upon the regulation of the factory. I have visited those institutions where I know that it is not a clean product. The product you produce possibly is clean; it may be wholesome and nutritious, as you state, and palatable, but that is not always true.

The CHAIRMAN. Pardon me one minute. The statement you have just made, if you will permit me, does not at all contradict any statement I have made. I did not state that it was impossible, nor I did not state that it was in evidence here that it was impossible, to manufacture oleomargarine in such a way that it might not be clean and wholesome. I did not state that it was in evidence here that oleomargarine may not sometimes be produced in such a manner as to make it neither nutritious nor wholesome. The only statement I intended to make was that there was no essential controversy here upon the proposition that if oleomargarine is made out of the proper

ingredients and in a cleanly and sanitary way it is a wholesome and nutritious product, just as butter, if it is made in a clean and wholesome way, is a nutritious and wholesome product.

Mr. HAUGEN. In connection with that statement I wish to state this, that at our former hearings men testified before that committee that manufacturers of oleomargarine employed as much as ten wagons in gathering and picking up scraps from restaurants and hotels. Here is the evidence of one Mr. Reeves, and here is the evidence of Doctor Schmitt, of the Agricultural Department, and here is the testimony of a number of others; I think there were scores of them who appeared before the committee and testified as to the articles which went into the production of oleomargarine.

Mr. LEVER. All of that was before the meat-inspection law went into force.

The CHAIRMAN. None of which controverts the proposition that if oleomargarine is made of proper materials and made under the proper methods it is a wholesome and nutritious product.

Mr. HAUGEN. If it is made of scraps, of course that would be deodorized and could be cooked up and made into what you might call a wholesome product.

Mr. PIRRUNG. When was this testimony given?

Mr. HAUGEN. At our former hearings, ten years ago.

Mr. PIRRUNG. Did you ever read the counter testimony to that?

Mr. HAUGEN. Yes.

Mr. PIRRUNG. Every bit of it was branded as a lie. It is just as impossible to make oleomargarine out of scraps and decomposed fat as it is to make a whole coat out of a torn piece of cloth. I challenge the whole world to contradict that statement. I say it is a lie, and it was brought in here for the very purpose for which you have used it here this morning—for the purpose of offsetting the reasonableness of our demand for equality.

Mr. HAUGEN. I am not questioning your statement as to your factory, but I have visited some of these factories, and I know something about the business, and I do know that there is a terrible bad odor about those establishments, and you or no other man would get within 40 rods of it.

Mr. PIRRUNG. Ridiculous! .

Mr. HAUGEN. Now, that was the condition several years ago. It may not be the condition at the present time. I am not here to contradict your statement about your factory. As stated by Captain Lamb, I have no doubt this factory was in an excellent and sanitary condition, and I have no doubt it was clean, as most of the factories are, as I stated to the chairman at the time; but that is not the question. I do not want this statement to go in the record unchallenged, that all of these factories in the past have been absolutely up to the standard.

The CHAIRMAN. No; I did not state that.

Mr. PIRRUNG. In regard to the cleanliness of the factories we have to-day, the butter crowd boast of it that 32 States have food departments for the enforcement of their food laws. In every one of the States except one there are food and factory commissioners who would be only too glad to find anything wrong. In fact, they have been prowling around nights, as well as in the day, to find one flaw in the manufacture of oleomargarine, so that they could put their

political bomb under us and blow us to perdition. In our State they have hunted and harassed and mulcted us until we became afraid of our own shadows. We destroyed every vestige of impurity that was possible in our own factory, and certainly there was not any odor you could smell 40 rods off. That is all rot.

Mr. HAUGEN. What is your State?

Mr. PIRRUNG. Ohio; which I am very proud of.

Mr. HAUGEN. Are you aware of the fact that the dealers of your State sold 8,830,980 pounds of yellow oleomargarine, every pound of it sold in violation of the law?

Mr. PIRRUNG. No, sir. When was that statement?

Mr. HAUGEN. That was prior to the passage of the present bill.

Mr. PIRRUNG. Prior to the passage of the present bill?

Mr. HAUGEN. Yes.

Mr. PIRRUNG. And they allowed it to be sold in violation of the food laws?

Mr. HAUGEN. That is from the report of Mr. Gage. It has not been contradicted so far.

Mr. LEVER. It seems to me that the statement of our friend from Iowa is absolutely irrelevant, because we are living under different conditions from what he describes.

Mr. HAUGEN. He was speaking of the efficiency of the officers of the States.

Mr. LEVER. That was 1901. It is 1910 now, and we are living under the Grout bill. What do you say as to the Grout bill?

Mr. HAUGEN. Yes; and you are trying to repeal it and I am objecting to it. That is the only difference.

The CHAIRMAN. May I offer this suggestion to the witness, that at some time—I do not mean to dictate to him, of course—we should like to have his opinion of the propositions in the bill before us.

Mr. PIRRUNG. At some future time?

The CHAIRMAN. No; before you close your statement here now. There is practically only one question pending before this committee now, and that is whether, on the one hand, the 10-cent tax shall be reduced to 2 cents or some other small sum, and, on the other hand, whether the tax shall remain as it is now and there shall be introduced into the present law language which will prohibit the sale of oleomargarine which is made any shade of yellow, either by artificial coloring or by the ingredients thereof. You understand, of course, that the present law permits oleomargarine to be manufactured any shade of yellow that may be produced without artificial coloring. The question now is, Shall we change that so as to prohibit that shade of yellow, even if it is produced by the ingredients which belong in the product? And we would like to have your opinion as to that matter.

Mr. PIRRUNG. Mr. Chairman. I am almost afraid to express my opinion, because it would, perhaps, be biased and prejudiced by the feelings that I have in connection with our product and for our product; but if you will permit me, perhaps, to depart from the regular line of legal and congressional talk, I am going to ask you gentlemen what effect the entire abolition of all the tax and the removal of the oppressive provisions of law from oleomargarine and putting it upon the same plane as butter would have on the people of the United States?

Mr. HAWLEY. I would like to ask, under what name do you sell your product?

Mr. PIRRUNG. Under the name of butterine and oleomargarine.

Mr. HAWLEY. I mean your firm name.

Mr. PIRRUNG. My company is the Capital City Dairy Company.

Mr. HAWLEY. And that goes on the packages when they go on the market?

Mr. PIRRUNG. On the revenue stamp only.

Mr. HAWLEY. Do you have your name on the packages, "Capital City Dairy Company?" Does that appear on the packages?

Mr. PIRRUNG. With the word "oleomargarine." You can not use the firm name unless the word "oleomargarine" is put on with it, and printed in letters of the same size as the firm name.

Mr. HAWLEY. Why did you put the word "dairy" in there?

Mr. PIRRUNG. That was a legacy handed down to me with the firm. I can not answer that question. Now, suppose we remove all restrictions from oleomargarine and allow the manufacturers to put it up in tubs and boxes just the same as, and identical with, butter, colored just the same as butter; what effect would that have upon the people of the United States? I did not want to bring up that subject, and I have given it just a very little thought, but it occurred to me if this product were sent competitively into a market, we will say in New York, it would be a matter of choice or selection of the buyer as to what product he would buy.

The CHAIRMAN. Would it be that, or would the unscrupulous retailer sell oleomargarine when somebody asked for butter?

Mr. PIRRUNG. Just a moment; will you let me go through with this, please?

Mr. HAWLEY. Would it not all be sold as butter?

Mr. PIRRUNG. Yes; certainly. Now, the man selects. His taste requires, perhaps, butter; perhaps it requires a tub of oleomargarine. Perhaps the price will make an incentive for the purchase of oleomargarine. Would it not have the effect of giving to the people of the United States, for whom you are legislating, a chance to buy a product unrestricted, unhampered with legal complications and surrounded with all kinds of difficulties, at a price suited to their pocket-books, without it having to come in with a great, big flaming circular, "Look out; I am a leper!" or something of that kind, and so that he would get the product at the same price or at a less price than it is selling for now, free from those taints, and so forth?

Mr. STANLEY. Right there I want to ask you a question along that line. I have been thinking along the line you are talking on. Would you have any objection to legislation which should compel you to put your oleomargarine into containers of a particular color, a pink, or a blue, or a yellow, or a brown, or any color you choose, marked as oleomargarine or butterine, invariably, no matter whether it is sold in large or small sized packages? If that duty was imposed upon you, so that either the manufacturers of oleomargarine or any of their subsequent agents would be absolutely prevented from selling it as or for butter, and all other restrictions were removed, would you have any objection to that?

Mr. PIRRUNG. I will answer that question a little later, if you please. I am coming to that point right there. Now, if these men were allowed to sell these two products without any distinguishing marks on the tubs, would it not have the effect of bringing the exorbi-

tant price of butter, which has been very high this year, and is going higher, down to the level of the workingman's pocket, or the butter user's pocket? Would it not, perhaps, put the price of butter and oleomargarine at a uniform price of, say, 25 and 30 cents, so that it can not go any higher, and at certain seasons and under certain conditions it would be sold for far less? Now, you all know, and it has been admitted before this committee, that it is equally as nutritious as butter.

Mr. LAMB. Right there, is the product as good as butter?

Mr. PIRRUNG. Certainly; it is better.

Mr. LAMB. If you establish the fact that it is as good as butter and equal to butter in every way, I think there is some force in your argument.

Mr. PIRRUNG. It is better than butter, because it is an absolutely new boiled product, whereas butter is a product made in prehistoric ways and under conditions that should have been long since obsolete. Our product is, every bit of it, boiled thoroughly, so that any one of all the various animal kingdoms that are in it is killed; and it does not get rancid.

Mr. LAMB. We had better abolish the cow?

Mr. PIRRUNG. Sure; you had just as well abolish the cow, except for beef purposes. It is not necessary to have her, except for beef purposes.

Mr. HAWLEY. Do I understand it is your contention that the producers of oleomargarine should be allowed to sell their product as butter, and there should be no distinguishing mark in the market at all?

Mr. PIRRUNG. I brought that out hypothetically. I asked permission of you and the chairman to bring that out. Suppose that should occur, would anybody be damaged to the extent of death? Would they be injured beyond repair physically, financially, or morally? What would occur if those conditions should obtain to-day? I ask you gentlemen to reason that. Why should oleomargarine be taxed at all?

Mr. HOWELL. If you should be able to destroy the industry of making butter, is there enough of the raw material of which oleomargarine is made to supply the demands of the people?

Mr. PIRRUNG. I can not answer that. You are asking me as to a condition of fact, while I am only going on theory. I do not want to be understood as meaning to destroy the dairy industry. It has just as much right to live as the oleomargarine industry has to live. There is but one reason I should like to have my hypothetical reasoning prevail, and that is why has oleomargarine been taxed, and why has the purpose of legislation been to destroy the industry and put it away and denounce it and decry it, so the people should turn up their noses at the very word "oleomargarine?" And those people are the very ones, I do believe, who read the Police Gazette twenty years ago.

The CHAIRMAN. No; I think there is another answer to that. Since you have asked the question, I presume you will be willing to have an answer.

Mr. PIRRUNG. Yes, sir.

The CHAIRMAN. I think the fundamental reason why there has been legislation against oleomargarine intended to throw safeguards around its sale is that in the beginning the manufacturers of it, or

the dealers in it—I do not believe the manufacturers, because I assume they always sold it for what it was, but the dealers in it—were not content to sell it for what it was, making a market for oleomargarine as oleomargarine, and to sell it at the price for which oleomargarine could be sold and sold at a fair profit, but they surreptitiously, fraudulently palmed it off on the people for butter, charging a butter price; and that is a matter that was brought to the attention of the Congress in such a forcible way that it could not be neglected or overlooked, and legislation was demanded, not because of a desire on the part of Congress to penalize any American industry or hamper it in any unreasonable way, but because Congress believed that the people were entitled to be protected from the fraudulent sale of a product pretending to be what it was not. It is a matter, it seems to me, that the oleomargarine people should very deeply regret that from the beginning they did not attempt to make a market for their product exactly for what it was. If they had done so they could have been spared all of this trouble, and the matter we are considering now is how we can prevent the fraudulent sale of oleomargarine when butter is asked for, and yet hamper the oleomargarine industry just as little as possible; and any light you can throw on that subject will be gratefully received by the committee.

Mr. PIRRUNG. I hope you will not be shocked by this, but I would say, remove the political power that is behind the dairy crowd to-day and you would have the reasonable solution for the sale of oleomargarine in its true and characteristic form.

Mr. HAUGEN. Now, just one question here. Is it not a fact that the manufacturers and dealers in oleomargarine encouraged the very thing that has been referred to by the chairman?

Mr. PIRRUNG. No, sir.

Mr. HAUGEN. Is it not a fact that Mr. Armour retired from business for that very reason? Here are his very words, where he said that he was a law-abiding citizen and would not countenance the violation of the law of the States. As I understood it, those were Mr. Armour's words.

Mr. PIRRUNG. I never heard that statement made.

Mr. HAUGEN. Is it not a fact that the manufacturers of oleomargarine and the dealers in oleomargarine have provided a defense fund?

Mr. PIRRUNG. For the retailer?

Mr. HAUGEN. Yes.

Mr. PIRRUNG. I never heard of one.

Mr. HAUGEN. Did they not charge the dealer 1 cent a pound extra for that purpose?

Mr. PIRRUNG. No, sir; I never was in such an arrangement, and I never heard of it.

Mr. HAUGEN. I am not charging you with it.

Mr. PIRRUNG. I never heard of its being in effect.

Mr. HAUGEN. Is it not true that you furnish these dealers, when they are prosecuted, with an attorney for their defense?

Mr. PIRRUNG. No, sir; I never knew of such a thing.

Mr. BEALL. Let me ask a question. The only tenable objection I have ever heard, in my judgment, against the sale of oleomargarine is that it was frequently sold as butter. Now, I would like to know to what extent, in your judgment, that is done, who is responsible for it, and in what way that condition might be avoided in the future?

Mr. PIRRUNG. The fraudulent sale of oleomargarine, as given by the Internal Revenue Department under Commissioner Yerkes, was less than 2 per cent of fraud in the sale of oleomargarine.

Mr. BEALL. That was the sale by the manufacturer?

Mr. PIRRUNG. No; by the retailer. The manufacturer never sold anything fraudulently. He can not. Why, the restrictions are so great that if the manufacturer sold one tub of oleomargarine fraudulently they would confiscate his whole plant. They have the power absolutely to wreck him.

Mr. BEALL. Come down to it and tell us the system of inspection by the United States Government that prevails in these oleomargarine factories, how your product is sold to the jobber, to wholesaler, and how it is marked and branded, and the precautions that are taken to prevent the fraudulent sale of it. Give us some information on that matter.

Mr. PIRRUNG. In the first place, the federal law requires, in addition to taxing oleomargarine, that an obligatory inspection be made at the factory once every month by the local deputy of the collector in the district where the factory is located.

Mr. BEALL. What does he inspect for?

Mr. PIRRUNG. For the report of manufacture of ingredients. He has a perfect right to go through your factory without notice to you. He has a perfect right to take samples of materials and have them analyzed, and he does take samples of materials and forward them here to Washington for analysis.

Mr. HAWLEY. Can you dispose of anything that has not been inspected? Suppose he comes the 1st day of the month, can you dispose of the product in the days between?

Mr. PIRRUNG. I am not on the internal-revenue part of it. Excuse me, but I am thrown off of one subject onto another before I can get through with it. I am coming to the commercial part of it.

Mr. HAWLEY. Very well.

Mr. PIRRUNG. Under the internal revenue they have a right to inspect our books. Any of you gentlemen can go into our factory, and there lies, open for inspection, a record of every pound of material used in the manufacture of our product. On the reverse side of that book is a record of every pound sold, the date, the number of packages, the number of pounds, the name of the purchaser, the street number, the city, and State, and county. That is a public record for public inspection by anyone. In addition to that, and since the agricultural meat-inspection law, the Government, under the Agricultural Department, has placed in our factory an inspector who examines every ounce of material that enters our factory, and every ounce of manufactured product, and our product only leaves our factory with his approval and with the attached stamp required by the agricultural bureau that it has been inspected and passed by the Government, under a serial number given to our factory.

In addition to those two I have related, we have a food and dairy commission, and a wary one we have always had; I must say that, that the State of Iowa has been overzealous in trying to find some flaw in our factory.

Mr. HAWLEY. Is the pasteurization of the milk that goes into your product required?

Mr. PIRRUNG. No, sir; that is voluntary on our part, and it is necessary, because milk and cream, under modern conditions of dairying, have to be shipped a great distance, and it is a rule that the milk is pasteurized as well as the cream.

Mr. LEVER. Did I understand you to say that you did pasteurize?

Mr. PIRRUNG. Yes, sir. We have five dairies operated by us for furnishing milk and cream used in our factory.

Mr. HAWLEY. The color of butter is yellow; it has that traditional color?

Mr. PIRRUNG. Butter is traditionally yellow in color.

Mr. HAWLEY. It may be a very deep yellow, or it may have only a trace of yellow in it. Why did the oleomargarine dealers in the beginning adopt the characteristic color of butter for their product, which did not in any way compare in color with the traditional color of butter, so that there never could be any attempt made to sell oleomargarine as butter, on account of the color? Why did you drift toward the color of butter? Why not take some other color that would have entirely carried you out?

Mr. PIRRUNG. Because at the time that oleomargarine was first made in this country, about 1880, we will say, the characteristic color of butter was mottled. It was of various shades, hues, and degrees of color, varying with the season, varying with the food of the cattle.

Mr. HAWLEY. Would it not generally be yellow?

Mr. PIRRUNG. Wait a minute.

Mr. HAWLEY. Would not everybody refer to butter as yellow if they gave it a color?

Mr. PIRRUNG. No; I do not think so.

Mr. HAWLEY. If anybody referred to the color of butter, would they not mean yellow?

Mr. PIRRUNG. My mother used to go to market time after time in the winter time, and never expect anything else but white butter. The oleomargarine man sought to make his product more sightly and more attractive by coloring it.

Mr. HAWLEY. Why did he not take some other color besides yellow?

Mr. PIRRUNG. Why should he take some other color? Why should we? What reason would there have been for us to take some other color?

Mr. HAWLEY. It seems to me that the taking of the color that had been attributed to butter was an attempt to sell the product under the guise of butter.

Mr. PIRRUNG. We will admit that we were making a substitute, but we did not aim to do anything except to color it uniformly. We were the first, my dear sir, to color oleomargarine uniformly yellow. And when we did that, the butter men, the ladle and the farm butter men, got into the band wagon and began uniformly coloring their butter yellow. Then went up the cry, "They are imitating us." I say no, gentlemen, we did not imitate them; they imitated us by coloring their butter yellow.

Mr. LAMB. I think you are mistaken. People colored their butter before that, with carrots and other things.

Mr. PIRRUNG. Not at all seasons of the year.

Mr. LAMB. You have got it wrong there.

Mr. PIRRUNG. Did the coloring with carrots make any difference with the quality of the product?

Mr. PLUMLEY. Do I understand that all your other statements before this committee are as well based on facts as your statement that the butter men followed you in making their product yellow, instead of being the originals?

Mr. PIRRUNG. You asked me whether my other statements are——

Mr. PLUMLEY. Whether you wanted them considered equally valuable.

Mr. PIRRUNG. In part my statement is true. In part my statement is absolutely true; but conditions as to feeding and as to the grade of cattle would necessarily produce a yellowness in the color of the butter.

Mr. PLUMLEY. I should like to have an answer to my question.

Mr. PIRRUNG. For the purpose of putting a trick question? I say yes.

Mr. PLUMLEY. Then I shall move to strike out all your testimony.

Mr. PIRRUNG. Very well; move to strike it out. We have been for twenty years getting it that way.

Mr. BEALL. Butter, as it comes from the creamery or the dairy, is uniformly colored yellow?

Mr. PIRRUNG. Yes.

Mr. BEALL. Prior to the time when they began the manufacture of oleomargarine, was there any general rule prevailing with regard to the coloring of butter?

Mr. PIRRUNG. No, sir; in 1880?

Mr. BEALL. Yes.

Mr. PIRRUNG. No, sir; at that time butter was sent out with a variety of color.

Mr. BEALL. Yes; at certain seasons of the year yellow, and at certain seasons of the year more of a white?

Mr. PIRRUNG. Yes.

Mr. BEALL. But now it is all uniformly colored?

Mr. PIRRUNG. Yes.

Mr. BEALL. Both summer and winter?

Mr. PIRRUNG. Yes.

Mr. BEALL. Did that practice begin after the oleomargarine people began uniformly coloring their product, or before?

Mr. PIRRUNG. I can answer that better, perhaps, by stating that in 1880 creameries were almost an unknown quantity. There were very few of them, as compared with the present time. Butter at the time I was referring to, and at the time the catch question was put to me——

Mr. PLUMLEY. I will request you, sir, not to use that expression.

Mr. PIRRUNG. I will refrain from it in future.

Mr. PLUMLEY. Yes.

Mr. PIRRUNG. Butter was made on the farm in small quantities by hundreds and thousands of makers, as compared with the very few manufacturers to-day. So that the variety of colors must have been very much greater than it is to-day, on account of the great number of people who made this dairy butter. You referred in your question to butter as it comes from the creamery. That at that time was of uniform color just as it is now, but the dairy butter was always variously colored.

Mr. BEALL. But it is uniformly colored now?

Mr. PIRRUNG. There is very little actual dairy butter being manufactured now.

Mr. BEALL. Now, to come down, I understand that all the product that leaves your factory is plainly marked, so as to indicate what it is?

Mr. PIRRUNG. Positively.

Mr. BEALL. There is nothing that goes out from the oleomargarine factory that is misbranded?

Mr. PIRRUNG. Not a bit of it.

Mr. BEALL. It goes into the hands of the wholesaler in that form?

Mr. PIRRUNG. Yes.

Mr. BEALL. Do you know whether or not, as it goes into the hands of the retailer from the wholesaler, it is plainly marked and sold as oleomargarine?

Mr. PIRRUNG. Going directly from the wholesaler to the retailer?

Mr. BEALL. Directly from the wholesaler to the retailer.

Mr. PIRRUNG. Certainly, sir; just as it came from the factory.

Mr. BEALL. You come down now to the retailer. The man next to him is the consumer. If there is any deception practiced in the disposition of this product, it must be, then, by the retailer who hands it out to the consumer. That is true, is it not?

Mr. PIRRUNG. I think so; yes, sir. He sells the product.

Mr. BEALL. Do you know to what extent any fraud or deception is practiced, whether or not it is general, whether it prevails to any considerable extent in the disposal of this product by the retailer to the ultimate consumer?

Mr. PIRRUNG. The internal-revenue bureau, as I stated before—

Mr. BEALL. Independent of that—have you any information independent of that as to whether or not there is any system of fraud and deception in the disposition of this product by the retailer?

Mr. PIRRUNG. I have some little knowledge of an occasional fraud in selling it for butter, but the main trouble has been by the interference of state food and dairy commissioners for selling it colored. In fact, all the cases brought in Ohio—I might say 99 per cent of the cases brought in Ohio—were not for the fraudulent sale of oleomargarine for butter, but because it was colored contrary to the laws of the State of Ohio.

Mr. BEALL. Now, I think you would render this committee a service and help us to solve this problem if you can suggest some way by which that fraud, in disposing of this product by the retailer to the consumer as butter when in fact it is oleomargarine, can be eliminated or can be minimized—can be reduced to a minimum.

Mr. PIRRUNG. You can not do it unless this Congress follows out, not from a legal reasoning but from a chemical reasoning, that the power to tax has the power to protect. Now, I am not a lawyer, but there is a law which gives you the power to tax, and with that you have an equal right to protect. All this fraud that has been claimed here is on account of the state rights. The Federal Government says, "If you make oleomargarine a certain way and under certain conditions and legal restrictions, it is all right and meets with our approval." But Ohio says, "If you color it, I will knock your head off." Now, what is the dealer going to do? Is he going to say, "Now, that is all right; I will get out of the business?"

Mr. LAMB. The federal law says if you color it in imitation of butter you can not sell it.

Mr. BEALL. No; artificially.

Mr. PIRRUNG. Artificially.

Mr. HAWLEY. What, in your opinion, is the natural color of oleomargarine?

Mr. PIRRUNG. Light yellow.

The CHAIRMAN. I should like to ask one further question in that same connection. It has been stated here that state laws prohibiting the sale of oleomargarine in any shade of yellow were ineffective for the reason that the defendant could come in and show that the United States authorities had passed his product as being uncolored oleomargarine. Has that been the experience in Ohio?

Mr. PIRRUNG. That the State has complained?

The CHAIRMAN. Yes. Do you know of prosecutions brought against dealers which have failed for the reason that the defendant was able to show that the United States authorities had passed his product?

Mr. PIRRUNG. No; I do not know of any cases of that kind in the State of Ohio.

Mr. JELKE. Mr. Chairman, I being a practicing lawyer, may I answer that question?

The CHAIRMAN. Yes, Mr. Jelke.

Mr. JELKE. Years ago, and since I have been off the bench, I have defended a number of those cases, and almost invariably, where fraud was absent from the transaction, the defendant has been acquitted. The conscience of the jury will not permit them to find a man guilty merely because the commodity looks like butter, if the testimony discloses that it has been honestly sold for what it is.

Mr. HAWLEY. Now, following up the question I asked a moment ago, do you mean to say that all over the United States, where oleomargarine is manufactured, the color is light yellow in all the factories, or were you referring to your own product especially?

Mr. PIRRUNG. In all of the factories. I am speaking now of commercial oleomargarine; I am not speaking of any distorted qualities or any distorted manufactured products. I am talking of the commercial oleomargarine.

Mr. HAWLEY. It can be made of cotton-seed oil alone, can it not?

Mr. PIRRUNG. Well, it would not be attractive to the taste, or even in appearance.

Mr. HAWLEY. What would its color be if it were made of cotton-seed oil alone?

Mr. PIRRUNG. Yellow, I guess. I never saw any of it made of cotton-seed oil alone, but cotton-seed oil is yellow. It is very yellow; it has an intense yellow color.

Mr. HAWLEY. You think it would be impossible to manufacture oleomargarine that did not have some color—light yellow?

Mr. PIRRUNG. In my judgment it is impossible.

Mr. LEVER. If you had to manufacture an oleomargarine without color, absolutely—and you say that is impossible—what would be the effect upon the business of the manufacture of oleomargarine?

Mr. PIRRUNG. It would destroy the manufacturing and sale of oleomargarine completely.

Mr. HAWLEY. What was that question?

Mr. LEVER. I asked the question, if he had to manufacture his oleomargarine white—and he says he can not do it because it is impossible

to be done—what effect would that have upon the oleomargarine business in the country. He answered that it would destroy it absolutely.

Mr. HOWELL. The light yellow color of oleomargarine would also come from the use of milk and cream in its manufacture?

Mr. PIRRUNG. And the oleo oil and cotton-seed oil; those three in conjunction.

Mr. HOWELL. The color of oleomargarine would be the same without any artificial coloring, if it was made in the winter, as if it was made in the summer time?

Mr. PIRRUNG. Practically so. I do not think the difference in color would be distinguishable to the naked eye.

Mr. CHAPMAN. Is the butter color used by the oleomargarine manufacturers and the butter manufacturers alike?

Mr. PIRRUNG. Yes, it is. By a recent ruling of the Department of Agriculture a certain color was defined as being usable. In other words, they forbid the use of mineral colors, confining butterine and butter makers to the use of vegetable colors. That has not come before you gentlemen, but the mineral coloring matter was supposed to be of a cumulative poisonous nature, and for that reason was ruled as unfit for pure-food purposes.

Mr. HAWLEY. Now, in the manufacture of oleomargarine generally, if I understand your statement in the beginning, you use four oils or ingredients. There is some cotton-seed oil, there is oleo oil, and neutral, and milk and cream?

Mr. PIRRUNG. Yes.

Mr. HAWLEY. You use cotton-seed oil?

Mr. PIRRUNG. Yes.

Mr. HAWLEY. Do all the oleomargarine manufacturers in the United States use some variation of these ingredients in differing proportions?

Mr. PIRRUNG. I am quite sure that they do.

Mr. HAWLEY. You do not think that some of them use three of them, or some use an additional one or two?

Mr. PIRRUNG. Not that I know of. Perhaps they do, in smaller quantities. But the three just mentioned—of oils—are the prominent ones. I might state that at one time, some years ago, they used, and even at this day they still use, some sesame oil, and there is an oil called maize oil, but I do not know anything about the use of those oils.

Mr. HAUGEN. Did I understand you to say that the present law was fairly well observed? There are very few violations?

Mr. PIRRUNG. The present law?

Mr. HAUGEN. Yes.

Mr. PIRRUNG. I think I can answer that by stating that the quarter-cent tax law is generally observed throughout the United States, but there has been some large and no doubt well-founded complaint made regarding the practice of disobeying the 10-cent tax law.

Mr. HAUGEN. What law did you refer to when you referred to the Commissioner of Internal Revenue making the statement that only 2 per cent was sold in violation of the law? Was that the present law?

Mr. PIRRUNG. I think it was the 1901 statement, on the former law, the 2-cent tax law.

Mr. HAUGEN. How about the present law?

Mr. PIRRUNG. I have not heard any statement made regarding that.

Mr. HAUGEN. Do you not believe it is fairly well observed?

Mr. PIRRUNG. The quarter-cent tax law is religiously observed, I believe. That is my judgment, that that is very strictly observed.

Mr. HAUGEN. Are you aware of the fact that one reason given here for the repeal of the present law is on the ground that it is being violated?

Mr. PIRRUNG. On account of the 10-cent tax imposition.

Mr. HAUGEN. No; I mean on the ground that it is being violated.

Mr. PIRRUNG. Sir?

Mr. HAUGEN. On the ground that the present law is being violated.

Mr. PIRRUNG. But only on that feature of the 10-cent tax for adding artificial color, is it not? Is not that the contention, that the moonshining and the violation of the law is in regard to that feature?

Mr. HAUGEN. I understand that Mr. Burleson's contention is that it should be repealed, giving as a reason the present violations of the law, referring to the reports of the commissioner.

Mr. PIRRUNG. You asked me my opinion. My opinion is that the 10-cent tax part of that law is being violated. The quarter of a cent part of it is not. Of course, we must refer to it as the present law.

Mr. HAUGEN. By whom is it being violated?

Mr. PIRRUNG. By the man who is called a moonshiner.

The CHAIRMAN. Is it not true that you are speaking from one standpoint and Mr. Haugen is questioning you from another?

Mr. PIRRUNG. It may be.

The CHAIRMAN. You are referring to the violation of the internal-revenue law on the part of the manufacturer in palming off oleomargarine that is really colored, and paying only a quarter of a cent, when he should pay 10 cents, whereas I understood Mr. Haugen's inquiry went to the question of the retail sale of oleomargarine fraudulently for butter.

Mr. PIRRUNG. We both admit that we were referring to the fraudulent sale of oleomargarine after it left the manufacturer's and wholesaler's hands.

The CHAIRMAN. Yes.

Mr. HAUGEN. Was that prior to the present law?

Mr. PIRRUNG. No; I am not referring to the present law now.

Mr. HAWLEY. How much of the manufacture of oleomargarine that you made last year, 9,000,000 pounds, did you pay the 10-cent tax on?

Mr. PIRRUNG. The amount was so infinitesimally small that I forget. Perhaps it was 40,000 or 50,000 pounds.

Mr. HAWLEY. It was very small?

Mr. PIRRUNG. Yes; it was practically insignificant.

Mr. JELKE. May I call Mr. Haugen's attention to pages 85 and 86 of the report of the Commissioner of Internal Revenue of last year in answer to his question?

Mr. HAUGEN. I have it before me; but I understood the witness to make the statement that the present law is being observed, and there are very few violations. I am perfectly familiar with that report, and the report and the statement of Mr. Burleson seem to differ.

Mr. LEVER. The witness makes the statement that the present law as to the quarter-cent tax is being observed, but that the law is being violated as to the 10-cent tax.

Mr. PIRRUNG. That is it, exactly.

Mr. LEVER. Is it not a fact that that differential on the 10-cent tax would be a motive for the violation of the law?

Mr. PIRRUNG. It is unquestionably the only motive that prompts the violation of this law.

Mr. HAUGEN. There is the same incentive to the dealer—the difference between the cost of the oleomargarine and that of butter, oleomargarine costing much less than butter. If he purchases it and it can be sold for the same price as butter, the profit is very large.

Mr. PIRRUNG. Yes; there is no question about that. But the profit that can be made on the difference between the quarter of a cent and the 10-cent tax is the first incentive, and no doubt the better part of the profit line.

Mr. HAUGEN. Do you favor the repeal of the present law?

Mr. PIRRUNG. I do.

Mr. HAUGEN. What reasons do you give for that; for what reasons should it be repealed? I have been trying to find out what reasons there are. I suppose somebody has some reasons for wanting it repealed.

Mr. PIRRUNG. How much more time am I to be allowed, Mr. Chairman?

The CHAIRMAN. I am sorry to say that the committee feels obliged to adjourn. The House meets at 12 o'clock, and there are matters on the floor which concern all of us, and we feel that we must be present.

(Informal discussion as to adjournment followed.)

Mr. JELKE. If the committee adjourns until to-morrow morning, I presume we may still have credit for the half day which we will have lost out of our time.

The CHAIRMAN. We will do the best we can on that.

(At 12 o'clock m. the committee adjourned until to-morrow, Saturday, April 30, 1910, at 10.30 o'clock a. m.)

**COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Saturday, April 30, 1910.**

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. Mr. Burleson, will you name the gentleman you would like to have appear first this morning?

Mr. BURLESON. Doctor Bennett will be the first witness this morning.

**STATEMENT OF MR. S. E. BENNETT, INSPECTOR, BUREAU OF
ANIMAL INDUSTRY, DEPARTMENT OF AGRICULTURE.**

The CHAIRMAN. Doctor Bennett, will you state your full name to the reporter?

Mr. BENNETT. My name is S. E. Bennett; I am inspector in charge of the Bureau of Animal Industry work at Chicago.

Mr. BURLESON. Where are you assigned by the department in the discharge of your official duties?

Mr. BENNETT. I have charge of the meat-inspection work in the Chicago yards, in the city of Chicago.

Mr. BURLESON. Will you please state to the committee whether the manufacture of oleomargarine is under your jurisdiction in Chicago also?

Mr. BENNETT. The oleomargarine in Chicago is manufactured under the supervision of our bureau there.

Mr. BURLESON. Now, briefly, state to the committee the character of inspection given by you and those under your direction in the manufacture of oleomargarine.

Mr. BENNETT. We inspect the animal fats that enter into its preparation—that is, for wholesomeness, as to whether they are clean or not, and also to see that they come from animals that are free from disease; and we also look after sanitary matters about the plant and supervise the work of the employees of the establishment, see that their clothes are in good condition, require them to put on clean clothing when necessary, and exercise a general supervision over the entire plant.

Mr. BURLESON. Is the inspection given by the officials of the Government such as to prevent the entering into the manufacture of oleomargarine of any unwholesome or deleterious substance whatever?

Mr. BENNETT. The inspection is absolutely safe in that line. Absolutely nothing can go into any product that is not sound and wholesome.

Mr. BURLESON. Does paraffin or stearin or any other of these like substances enter into the composition of oleomargarine now?

Mr. BENNETT. I do not know that any paraffin enters into the manufacture of oleomargarine, nor do I know that they are using any stearin.

Mr. HAWLEY. Do you have a man in the factory all the time?

Mr. BENNETT. We have a man there all the time. There is no work done in the house at any time unless we have a man there.

Mr. McLAUGHLIN. Do you inspect anything except what we might call the meat products that go into oleomargarine, and have you any knowledge of the other elements that go into it?

Mr. BENNETT. Of course we know the ingredients that enter into that, and of course, see that everything is handled in a cleanly manner, the meat food products, and also see that the other stuff is handled in a cleanly manner before it goes into the product.

Mr. McLAUGHLIN. Do you think that these materials used in the oleomargarine are themselves pure? Do you examine them in bulk?

Mr. BENNETT. We do that, and also the finished products. We have a chemical laboratory there and we take samples at any time, of all products, and analyze them before and after they are used; before they go into the finished product and also afterwards.

The CHAIRMAN. Do you inspect the raw materials out of which these fats and oils are made?

Mr. BENNETT. Oh, yes, sir.

The CHAIRMAN. I have before me a letter written by a commission company in St. Louis in which appears this statement:

Furthermore, it is well and generally known that oleomargarine has been and can be made of the foulest sorts of fats.

Are you able to state, from your experience and observation as an inspector, whether that statement is true?

Mr. BENNETT. I do not see how it would be possible to move a clean, wholesome product from any dirty fat, and I know, for the station that I have charge of, that that is absolutely untrue, because we would not permit for a single instant anything that was not absolutely clean to enter into any product.

The CHAIRMAN. Would it be possible to manufacture a clean, sound oil, by any process of refining, out of filthy, rancid raw materials?

Mr. BENNETT. No; you could not make a sound product from a sour, filthy fat.

The CHAIRMAN. There is not any chemical process by which it could be made to appear for the time, temporarily, sweet and wholesome?

Mr. BENNETT. We have tried experiments in that line. We have taken sour lard and handled it very much as they handle renovated butter, and we have not been able to produce a product that would be in condition to use to make an edible product. That was done just as a matter of experiment.

The CHAIRMAN. I have another letter written by a man who signs himself "A packing house employee." It is addressed to the Committee on Agriculture, from New York City, and he says:

I know that if you saw the shop fat from which oleo oil—its chief constituent—is made, you would never relish it nor soon care to eat it again. About one-third of all of the oleo oil made is extracted from this shop fat, which is gathered promiscuously from the numberless little butcher shops throughout the city or country.

This shop fat—or, more properly speaking, mixture—is mingled with the sawdust, chicken feathers, heads, entrails, bits of old rags, and almost everything else imaginable, as it is brought in wagons to the rendering establishments controlled and operated by the big packing houses. This may be seen most any afternoon as it is brought in to a rendering establishment at the foot of East Forty-fifth street and at the foot of West Fortieth street, in this city, although there are several other places as well; and I suggest that if convenient you take a look for yourself some time, but be careful and don't let them know who you are or what you are looking for.

Another great abuse in this business is in the handling of grease from dead hogs and cattle and diseased animals (condemned). This vile grease and tallow is not colored or denatured as it should be, but is placed in containers or casks and simply marked "inedible," a word that is easily changed to edible. Some time ago the Government ordered that all inedible grease, etc., be colored or denatured to prevent its use as food, but the American Packers' Association lost no time in having the order recalled and simply require now that this stuff be marked "inedible."

Certain firms not connected with the packing houses cart this stuff away and refine it or bleach it. This is done by cooking it with bicarbonated soda and then straining it, or rather filtering it, through fuller's earth, after which it is deodorized by forcing air through the mixture while heated to carry off the odor, and it comes out as white as snow.

What would you say as to the correctness of the material statements made in this letter?

Mr. BENNETT. I would say they were false, from my association with dairies and what I know of dairy employees as a rule.

The CHAIRMAN. Have you ever, in your own experience as a meat inspector, seen any evidence of the oleo oil having been made from what he describes here as shop fat, gathered up around the various butcher shops and around these places?

Mr. BENNETT. I will tell you our experience with shop fat. Of course in New York City they have considerably more business in the shop-fat line than we have in Chicago. I think they have 7,000 shops that they collect fat from in New York, while we have comparatively few in Chicago. But at the same time, while we may get what they call shop fat, which may come in mixed with chicken feathers and chicken heads and all that kind of thing, and it is not an edible product, it is put into a tank and rendered into an inedible grease, and everything we receive in Chicago is absolutely pure and wholesome and bears the mark of inspection on it.

Mr. LEE. There is no butterine made in New York City?

Mr. BENNETT. They manufacture oleomargarine. I do not know whether they manufacture butterine.

Mr. LEE. You do not know of any butterine?

Mr. BENNETT. No, sir.

The CHAIRMAN. What we are talking about is the manufacture of oleo oil.

Mr. BENNETT. Yes.

The CHAIRMAN. We want to find out how far back into the product of the raw material the government inspection goes.

Mr. BENNETT. In the shops we have in Chicago they gather the shop fat, and I have a man that goes around there constantly from place to place to see that those shops are in good condition, are kept in sanitary condition, and we require them to have galvanized iron containers to put this fat in, and we see that they are kept clean. It depends altogether on the weather how often it is collected. In the summer time they collect it and render it every day, but in the winter time they collect it and put it in their coolers, so that there is no danger of its getting in a bad condition. In the summer time it may become sour, and if it arrives at the plant in a sour condition we throw it into the grease plant.

The CHAIRMAN. What precautions do you take to make sure that the things you mark "inedible" do not finally get in with those that are edible?

Mr. BENNETT. No more than the precaution of marking it on the end of the package. We mark it "inedible." We mark it "grease" or "inedible grease," and some of them use a stencil; and if the product comes from what is termed the "black gut" in hogs, that makes a dark-colored grease.

The CHAIRMAN. What do the packers do with that product?

Mr. BENNETT. They ship it. I have traced some of it. It goes to soap factories.

Mr. BURLESON. It could not enter into the manufacture of oleomargarine without the connivance of a government inspector?

Mr. BENNETT. It could not possibly enter into the manufacture of oleomargarine.

Mr. BURLESON. And no condition such as described in this letter read by the chairman could exist unless some government inspector was conniving at it and betraying his trust?

Mr. BENNETT. Some one would have to be negligent or careless in the performance of his duties; otherwise nothing like that could exist.

The CHAIRMAN. But coming back to this New York proposition, are you sure you could detect oleo oil manufactured by such a process as is described here?

Mr. BENNETT. Manufactured from shop fat?

The CHAIRMAN. Yes.

Mr. BENNETT. There is no doubt about it. You can not make a No. 1 oleo oil from shop fat. I have known cases where they took a shop fat, apparently clean and wholesome in every way, and manufactured it into a No. 4 oleo oil. If you put shop fat into oleomargarine, you can detect it in the flavor right away.

The CHAIRMAN. What would be the result of putting shop fat through the process that is described here—cooking it with bicarbonate of soda and then straining it or filtering it through fuller's earth, and then deodorizing it by forcing air through the mixture while hot?

Mr. BENNETT. I believe you might get rid of the odor, but I do not believe you would ever get rid of the odor of shop fat in any product. Shop fat has a peculiar odor.

The CHAIRMAN. Then you would say that every material statement here which I have just read, describing the process by which oleo oil is sometimes made and the materials out of which it is made, is false?

Mr. BENNETT. So far as I know, it is absolutely false. I have never known of a case of that kind where they have made oleo oil as described in this communication.

The CHAIRMAN. What sort of test do you apply to the oleo oil that goes into the butterine factories?

Mr. BENNETT. What sort of a test for what?

The CHAIRMAN. Of the oleo oil.

Mr. BENNETT. We simply try it; open a tierce and try it, to see whether it is sweet and sound. All the stuff comes in tierces, and is stamped "United States, inspected and passed." We take a long trier and run it in there and take out a sample from the tierce to see that it is sweet.

The CHAIRMAN. Do you determine that by the smell?

Mr. BENNETT. By the odor and also by the taste.

The CHAIRMAN. You do not make a chemical analysis?

Mr. BENNETT. Not always. We frequently do analyze all the products. We do not analyze every shipment that comes in. We make simply a test in that way; that is the commonly accepted way of testing all products of that kind, like lard.

The CHAIRMAN. Have you ever known a case in which oleo oil manufactured from shop fat was used or attempted to be used in the manufacture of oleomargarine?

Mr. BENNETT. Oh, I have known of cases where they have manufactured oleo oil from shop fat, but-not from the kind of shop fat that he describes there. It was shop fat that came in marked, like kidney fat and cod fat. We do not permit any of the fat of that kind to enter into an edible product in Chicago, except the fat from the kidneys and the cod fat.

The CHAIRMAN. You think it is wholly impossible, under your present system of inspection, for oleo oil manufactured out of material which is in effect a mixture of shop fat, sawdust, chicken feathers, entrails, and bits of old rags and other trash, to enter into the process of manufacturing oleomargarine?

Mr. BENNETT. I do not see how it could possibly be, and make any kind of a decent product. They might attempt it, but even then they could not do it unless some of the government employees were negligent in the performance of their duties.

Mr. BURLESON. Is that an anonymous letter you have there?

The CHAIRMAN. No, sir; it is signed.

Mr. BURLESON. Is that man still in the government service or has he been dismissed?

The CHAIRMAN. There is nothing in the letter to indicate that he has been dismissed.

Mr. PLUMLEY. You say you think that is impossible?

Mr. BENNETT. Yes, sir; I say to make a wholesome product; to make a thoroughly decent product. You might make an inferior grade of oleomargarine from that.

Mr. PLUMLEY. And are you saying that from your general judgment of what would be impossible, or are you saying it from practical experimentation?

Mr. BENNETT. Well, as I told you, I know of oleo oil that has been made from shop fat, but still it has a distinctive odor and flavor.

Mr. PLUMLEY. Have you ever experimented along the lines of rectification named in that letter?

Mr. BENNETT. No; not in the manufacture of oleo; not in the manufacture of oleo oil.

Mr. PLUMLEY. Have you ever taken such articles of shop fat as are spoken of in that letter? I call your attention to the letter; I can not repeat it, but you heard it.

Mr. BENNETT. Yes.

Mr. PLUMLEY. And put it through the processes named in that letter?

Mr. BENNETT. No; I have not.

Mr. PLUMLEY. And attained the result?

Mr. BENNETT. No; I have not.

Mr. PLUMLEY. No? So that when you say that it would be impossible you are speaking from your belief and not from a fact of experimentation?

Mr. BENNETT. But I say it would be impossible, in this way—

Mr. PLUMLEY. Please answer my question.

Mr. BENNETT. I have never made the experiment myself.

Mr. PLUMLEY. And you are answering it from your judgment that it could not be, rather than from any experience?

Mr. BENNETT. Well, the reason I say it could not be, it could not possibly be unless some government employee were careless.

Mr. PLUMLEY. I am asking you this. You just please note what I say. I am asking you whether you were making your answer to Chairman Scott upon your best judgment or upon experience of this or similar treatment?

Mr. BENNETT. I would say from my best judgment they could not.

Mr. PLUMLEY. Please answer my question. Just note it. I asked you which way you were doing it; whether you were deciding it upon judgment—

Mr. BENNETT. I am deciding not from experiment, but upon my own judgment.

Mr. PLUMLEY. That is all right. That is enough.

The CHAIRMAN. Would it be your judgment that oleomargarine could be made without any tinge of yellow?

Mr. BENNETT. Without any tinge of yellow?

The CHAIRMAN. Yes.

Mr. BENNETT. It depends upon a technical definition whether it was or not. We make an oleomargarine that we could say is a white product.

Mr. BURLESON. Well, is it a white product?

Mr. BENNETT. To the ordinary casual observer. If I would show you a package of that oleomargarine and ask you the color of it, you would say it was white.

Mr. LEVER. Is it white?

Mr. BENNETT. If you make a test of it; it is white to all intents and purposes. Probably you would call it white. I would.

Mr. HAWLEY. Of what components would that oleomargarine be made? Would it contain oleo oil and cotton-seed oil?

Mr. BENNETT. Yes; and neutral.

Mr. HAWLEY. And butter fat?

Mr. BENNETT. Possibly.

The CHAIRMAN. I notice in a dispatch from Chicago, dated April 14, that a decision has been rendered by the Commissioner of Internal Revenue to the effect that such materials as peanut and mustard oils may be used in the manufacture of oleomargarine in sufficient quantities to make them a constituent part of the product, and if so used they can not be regarded as artificial coloring matter. In your judgment would the introduction of the oils I have named, in sufficient quantities to constitute a material ingredient, improve or depreciate the value of the product?

Mr. BENNETT. I do not think it would depreciate the value any in the making of the finished product, to use peanut oil or mustard oil there mentioned. Some manufacturers use it and some do not.

The CHAIRMAN. Are those wholesome oils?

Mr. BENNETT. They are so considered; yes, sir.

The CHAIRMAN. Do you have anything to do with the product after it is packed and ready for sale by the manufacturer?

Mr. BENNETT. We put our meat label on, certifying that it was inspected and passed under our supervision in accordance with the law.

The CHAIRMAN. You do not follow it to the wholesaler?

Mr. BENNETT. No; we supervise the shipment from the factory.

Mr. BURLESON. You do not make any report as to the quantity manufactured by any given concern?

Mr. BENNETT. Yes; we make daily reports. The man at the plant reports the amount of oleomargarine manufactured at that factory every day.

Mr. BEALL. Do you have any supervision over the material that goes into that factory, for the purpose of determining the quantity of the different materials that goes into the factory?

Mr. BENNETT. Into the factory?

Mr. BEALL. Yes.

Mr. BENNETT. Everything coming in under our supervision either comes in in packages bearing our stamp or in sealed cars, and the seal is not broken until it is broken by a government employee.

Mr. BEALL. You keep a record of the quantity of material that goes in?

Mr. BENNETT. Everything that is received in the plant for the manufacture of the product.

Mr. BEALL. And you keep a record of the manufactured product that goes out?

Mr. BENNETT. Yes.

Mr. BEALL. Why do you keep those records?

Mr. BENNETT. That is required by the bureau for their reference. These daily reports are made of the amount of the product manufactured in the factory. That is part of the work of the employee there.

Mr. BEALL. Is it one of the purposes to see that no greater quantity of manufactured product goes out than of the raw material that has gone in, so as to prevent the introduction into the manufacture of oleomargarine of some materials that might be carried into the factory?

Mr. BENNETT. We check that up in other products, too, the same way.

Mr. BEALL. You do keep a check, then?

Mr. BENNETT. Upon the material that goes in; yes.

Mr. BEALL. And the manufactured product that goes out?

Mr. BENNETT. And the manufactured product that goes out.

Mr. HAWLEY. In the factories under your supervision, do they render from the meat products the oleo oil that they use or do they buy the oil already rendered from the packers?

Mr. BENNETT. We have in Chicago three factories that manufacture oleomargarine that do not manufacture the oil themselves; they buy their oil from other establishments.

Mr. HAWLEY. How many of them render from the animal products their own oil?

Mr. BENNETT. Three or four, I think. Yes; there are four that manufacture from the oil that they render themselves.

Mr. HAWLEY. How are these meat products inspected before being rendered into oil; under the government inspection of meats?

Mr. BENNETT. Yes.

Mr. HAWLEY. You have nothing to do with that?

Mr. BENNETT. The rendering of these oils?

Mr. HAWLEY. How are these meat products from which the oils are rendered by these four factories you last mentioned inspected; by the meat-inspection service?

Mr. BENNETT. Yes; they are inspected by the men of the Bureau of Animal Industry.

Mr. HAWLEY. Do you have anything to do with that?

Mr. BENNETT. Yes; that is the bureau of which I am an inspector.

Mr. HAWLEY. You have charge of that?

Mr. BENNETT. Yes.

Mr. LEVER. Do you have supervision over the sanitary conditions of the oleomargarine factories in your district?

Mr. BENNETT. Yes.

Mr. LEVER. What do you have to say as to the general sanitary condition of the factories in your State?

Mr. BENNETT. The sanitary condition of all the oleomargarine factories in Chicago is excellent.

Mr. LEVER. Excellent?

Mr. BENNETT. Yes.

Mr. LEVER.

You inspect every element of raw material that goes into the manufacture of oleomargarine?

Mr. BENNETT. That is, in the meat-food products line.

Mr. LEVER. In the meat-food products?

Mr. BENNETT. Yes.

Mr. LEVER. You do not inspect butter?

Mr. BENNETT. Butter? No.

Mr. LEVER. You do not inspect milk?

Mr. BENNETT. We do not inspect milk, no, any more than to see that any of these ingredients which enter in are clean and wholesome. We have not any supervision, of course, over the manufacture of butter.

Mr. LEVER. You have supervision also of the slaughtering of the cattle that go into the packing houses, and so on?

Mr. BENNETT. Yes.

Mr. LEVER. What proportion of the total number of cattle slaughtered are condemned on account of disease?

Mr. BENNETT. Among cattle the condemnations run less than 1 per cent. In bulk, the condemnations usually run between 1 and 2 per cent.

Mr. LEVER. Every meat-food product that goes into the manufacture of oleomargarine must pass your inspection?

Mr. BENNETT. Must be inspected before it enters into any place where we have inspection at all—into an official establishment.

Mr. LEVER. Is that inspection rigid?

Mr. BENNETT. Very rigid.

Mr. LEVER. So that an unwholesome meat-food product could not go into the manufacture of oleomargarine?

Mr. BENNETT. I think it would be absolutely impossible. I do not see how it could possibly get into a food product—any unsound, unclean, or unwholesome product—without the connivance, as I say, of some employee.

Mr. LEVER. What do you do with the carcasses of the animals that are condemned?

Mr. BENNETT. They are put into the rendering tank and rendered.

Mr. HAWLEY. No part of them is saved?

Mr. BENNETT. It depends on the extent of the disease. The diseased parts are destroyed.

Mr. HAWLEY. How do you tell about the diseased parts; by the appearance to the eye or by some chemical test?

Mr. BENNETT. The men we have are all trained men. They are all graduate veterinarians. We have no men to-day on post-mortem work except veterinarians, and it is their business to know a diseased carcass from a healthy one.

Mr. HAWLEY. Is any diseased fat ever used for edible purposes?

Mr. BENNETT. They use no diseased fat for edible purposes.

Mr. HAWLEY. Take an animal condemned for disease. You save one-quarter of the carcass. Is any of the edible fat from the other three-quarters of the carcass used?

Mr. BENNETT. If we pass a carcass, they can use it for any purpose they desire.

The CHAIRMAN. Have you ever had any experience in the inspection of process butter?

Mr. BENNETT. We exercise a kind of supervision over renovated butter. We simply look after the sanitary conditions of those plants.

The CHAIRMAN. What would you say is the principal objection to renovated butter as compared with fresh-made butter? Which will keep sweet the longer, for example?

Mr. BENNETT. Mr. Chairman, I have not had sufficient experience with renovated butter. It is just a short time since we took charge of those plants, and we have not made any experiments with the renovated butter proposition at all. Of course, we would not allow a packer to take rancid lard and old lard and renovate it in the same way they do butter. We would not permit that at all.

The CHAIRMAN. Would it be possible to take rancid lard and renovate it and put it through any sort of chemical process and produce a product which could be used in the manufacture of oleomargarine?

Mr. BENNETT. It might be possible to make it in as good shape as they put renovated butter, but I do not believe it would keep as long or last as long. I tried that once with some musty fatbacks that were shipped in at Chicago as a matter of experiment. There was a carload came in there of them.

Mr. HAWLEY. Of what?

Mr. BENNETT. Musty fatbacks. Fatbacks from the hog. They came in, and they were old fatbacks, and had a musty odor, and we tried running them through the hasher and hashing them up, and then melting it and handling it the same as they handle renovated butter.

The CHAIRMAN. Did you try sulphuric acid or caustic soda?

Mr. BENNETT. No; we handled it just the same, as near as I know, as they handle renovated butter, and I kept some of it for quite a while, and after I had had it about five weeks I noticed there was a mold growing in it.

The CHAIRMAN. Are you a chemist?

Mr. BENNETT. No, sir; I am not a chemist.

The CHAIRMAN. You are not able to state from your own experience, or from your own experiments, or the observation of other experiments, whether it would be possible to take vile, rancid fats, and by treating them with caustic soda and sulphuric acid, to so deodorize them as to deceive the government inspector to such an extent that he would pass them?

Mr. BENNETT. I am not in position to answer that question. I do not think it could be done. I do not know, though; I have never tried it.

The CHAIRMAN. Are there any further questions?

Mr. BURLESON. I would just like to ask you, if they brought into an oleomargarine factory renovated butter, and proposed to use it as one of the component parts of oleomargarine, would you permit it?

Mr. BENNETT. Renovated butter?

Mr. BURLESON. Yes.

Mr. BENNETT. We would probably have to permit it, if it were brought in and passed, brought out of an establishment where it was under government supervision. If they brought it in in that way and wanted to use it in the manufacture of oleomargarine, the chances are we would have to permit it.

Mr. STANLEY. Speaking of diseased cattle, are many of the diseases you found in cattle such as can be transmitted in the product of the living animal in milk and butter?

Mr. BENNETT. We find a great deal of tuberculosis that might be transmitted in that way.

Mr. STANLEY. Do you not believe that, for the safety of public health, the butter makers should be subjected to the same inspection?

Mr. BENNETT. You want my personal opinion?

Mr. STANLEY. Yes.

Mr. BENNETT. That is my personal opinion; because I prefer, myself, oleomargarine to butter, because I know how oleomargarine is manufactured and I do not know how butter is manufactured.

Mr. STANLEY. You think it would be wise to subject them to the same restrictions as oleomargarine is subjected to?

Mr. BENNETT. Yes; I think it would be wise to do that, because there are many tuberculous cows used throughout the country to-day in the production of milk and butter. That comes to light every once in a while when some man is cleaning out his dairy herd, where they are killing the dairy cows that are sold out of the herd. In one day in Chicago we got 82 cattle.

Mr. STANLEY. Tuberculous?

Mr. BENNETT. In one day; tuberculous cattle.

Mr. STANLEY. You say where some man is cleaning out his dairy herd?

Mr. BENNETT. Yes; they send these old dairy cows in to the packers. They gather them into one big lot every once in a while and drive them in and they are killed. We sized those up as dairy cows. They had all the earmarks of dairy cows.

Mr. LEVER. Do you find much tuberculosis in dairy cattle?

Mr. BENNETT. In all the dairy and milk-producing cows you will find a great deal of tuberculosis. Everything in the dairy cow is neglected for the production of milk. She is practically a digestive machine.

Mr. BURLESON. She is kept in a stable, too?

Mr. BENNETT. Yes.

Mr. HAWLEY. Is any breed of dairy cattle especially subject to tuberculosis?

Mr. BENNETT. All the high-bred cattle seem to have tuberculosis.

Mr. HAWLEY. Irrespective of breed?

Mr. BENNETT. Irrespective of breed.

Mr. HAWLEY. Are dairy cattle as a class more subject to disease than the ordinary beef steer?

Mr. BENNETT. Yes; there is more disease among cows than among steers or bulls.

The CHAIRMAN. That is because they are better taken care of?

Mr. BENNETT. Yes; the cow is practically just a digestive machine. She is used for the production of milk and butter, and everything else is neglected.

Mr. PLUMLEY. Have you ever seen an analysis of milk from cows in those conditions?

Mr. BENNETT. We are conducting some experiments now for the city of Chicago for the milk supply, and we have gotten the bacilli of tuberculosis from the milk supply by inoculation.

Mr. PLUMLEY. You say you got a case?

Mr. BENNETT. We got a case by inoculation from the milk supply of Chicago the other day.

Mr. HAWLEY. When the fat is rendered is the fat from the lymphatic glands put in with it?

Mr. BENNETT. The diseased fat of the glands never goes into an edible product.

The CHAIRMAN. I am told that Doctor Bennett desires to catch the 11.30 train, and we will have to excuse him now.

Mr. FLANDERS. Is it too late for me to ask him one or two questions?

The CHAIRMAN. Well, make it very brief.

Mr. FLANDERS. Doctor Bennett, are you a veterinarian?

Mr. BENNETT. Yes.

Mr. FLANDERS. Do you know there are two kinds of tuberculosis very well recognized?

Mr. BENNETT. Yes.

Mr. FLANDERS. General and localized?

Mr. BENNETT. Yes; it is all the same disease.

Mr. FLANDERS. It is the same disease?

Mr. BENNETT. Yes.

Mr. FLANDERS. When you find a carcass is diseased, what is done with it?

Mr. BENNETT. It is rendered in a rendering tank.

Mr. FLANDERS. What do you do if the tuberculosis is localized?

Mr. BENNETT. It depends on the extent of the disease.

Mr. FLANDERS. You do not condemn that carcass?

Mr. BENNETT. No, sir.

Mr. FLANDERS. Some of it may be used for food?

Mr. BENNETT. For edible purposes.

Mr. FLANDERS. And some parts of the animal may go into use for those purposes?

Mr. BENNETT. Yes.

Mr. FLANDERS. And if the bacillus of tuberculosis is in that food it then may go in the process of making oleomargarine, may it not; it may go in that direction?

Mr. BENNETT. I do not see how the bacillus of tuberculosis would be found in the food.

Mr. FLANDERS. Oh, you do not?

Mr. BENNETT. No, sir.

Mr. FLANDERS. Let me ask you, a localized case of tuberculosis may be found in the lymphatic glands?

Mr. BENNETT. It may be confined to one part of the animal.

Mr. FLANDERS. It may be localized or confined to several portions of the body at the same time?

Mr. BENNETT. Yes.

Mr. FLANDERS. Is it confined to the glands also?

Mr. BENNETT. The liver or the spleen is sometimes affected, and we even find the bones are affected sometimes.

Mr. FLANDERS. Yes.

Mr. BENNETT. We find it in the bones, the liver, the spleen, and the lungs.

Mr. FLANDERS. May it not be in the fat?

Mr. BENNETT. I have never seen any tubercles in the fatty tissue.

Mr. HAWLEY. In the kidney?

Mr. BENNETT. I have seen it in the kidney; yes.

Mr. FLANDERS. Have you examined the fat of any great number of animals that had tuberculosis to see whether they had the tubercles in the fat?

Mr. BENNETT. Under our system of inspection I would like to say—

Mr. FLANDERS. I do not want you to do that.

Mr. BENNETT. But I would rather explain it. We will take a localized case of tuberculosis. No carcass is passed without we make a thorough examination of every gland. Every gland is cut into and every organ is cut into and examined, and if there is any tuberculosis all the diseased portions are cut away.

Mr. FLANDERS. So far as you can find them?

Mr. BENNETT. Yes; that show the disease.

Mr. FLANDERS. Then you can not be absolutely safe about it?

Mr. BENNETT. There is no evidence to show that the tubercle bacilli would be present in the fat.

Mr. FLANDERS. What I want to get at is, is it not true that sometimes the fat of an animal affected with tuberculosis may be used in the manufacture of oleomargarine?

Mr. BENNETT. I think so.

The CHAIRMAN. Let me ask you a question there that may dispose of the whole proposition. Would the rendering of the fat destroy the life of the germs?

Mr. BURLESON. When you melted it?

Mr. BENNETT. In the preparation of oleo oil?

Mr. BURLESON. Yes.

Mr. BENNETT. The chances are, if there were any tubercle bacilli in any of the fat, they would not be subjected to a sufficient temperature.

The CHAIRMAN. They can stand a higher temperature than the melting point?

Mr. BENNETT. Yes.

Mr. STANLEY. How is it with tuberculosis; do you usually find a lesion in the lungs?

Mr. BENNETT. We do find it there, but not always.

Mr. STANLEY. That is the most usual place?

Mr. BENNETT. No, sir; in hogs we locate 97 per cent of the infection in one place, in the small glands in the neck.

The CHAIRMAN. How about cattle?

Mr. BENNETT. You may find the lungs or the liver affected. I have seen cases where it was in the liver alone.

Mr. STANLEY. Where it is in the lungs or the liver, the tubercle is bound to find its way into the circulation?

Mr. BENNETT. There is no evidence that the tubercle bacilli are ever found in the circulating blood. Doctor Schroeder made some experiments along that line.

Mr. STANLEY. How about the lymphatic circulation?

Mr. BENNETT. It is carried in that way.

Mr. STANLEY. That will bring it into the milk, will it not?

Mr. BENNETT. It is found in the milk, sometimes.

Mr. STANLEY. It is possible for the animal to have tubercles in the lungs and not in the milk?

Mr. BENNETT. That is to say, you might not find it in the milk.

Mr. STANLEY. Or they might be in the liver and not in the milk?

Mr. BENNETT. I would not say that. Any tuberculous animal is dangerous when it comes to the milk.

Mr. FLANDERS. Now, is it not true that localized tuberculosis is tuberculosis in which the germ has gotten into the circulation?

Mr. BENNETT. Yes; that is, the lymphatic circulation.

Mr. FLANDERS. You spoke about a number of cows that you found with tuberculosis. Is not your experience with cows confined to the milch cows taken out of dairies in order to clean out the dairies?

Mr. BENNETT. Yes.

Mr. FLANDERS. And is not your experience with steers extended to all the steers killed for beef purposes?

Mr. BENNETT. Yes.

Mr. FLANDERS. Then your experience is confined to a few cows weeded out to get rid of disease?

Mr. BENNETT. I do not know that they were weeded out. It may be that they had outlived their usefulness in the dairy.

Mr. FLANDERS. Yes; I so understood you. Now, you stated that there was no stearin in oleomargarine?

Mr. BENNETT. Not to my knowledge.

Mr. FLANDERS. You do not know of any? If you had presented to you the fact that Doctor Wiley had stated that there was from 16 to 20 per cent, you would not dispute it?

Mr. BENNETT. If Doctor Wiley said he had found it, I would accept that.

Mr. FLANDERS. You do not mean to be understood as saying that there is no sterin in oleomargarine?

Mr. BENNETT. No; I do not mean to be understood as saying that at all.

Mr. FLANDERS. I guess that is all.

The CHAIRMAN. We are very much obliged to you, Doctor.

STATEMENT OF MR. GEORGE E. GREEN, SECRETARY OF THE RETAIL MERCHANTS' ASSOCIATION OF ILLINOIS.

Mr. GREEN. I am secretary of the Retail Merchants' Association of Illinois, which is a commercial body of retailers, and I am appearing before you and your committee, Mr. Chairman, in behalf of a product which we all recognize, or at least concerning which we are accepting the opinion of our scientists, as a wholesome product. We do not attempt to go into this matter in a scientific way; we simply accept their opinion on this proposition. We appear before this committee as the venders of this product to the consumer, and as to having a preference for either the dairyman or the oleomargarine manufacturer, we have none. Our interest simply lies in the fact that we are distributors of an accepted wholesome product, and we desire that what in our opinion and in our experience in the distribution of this product has been demonstrated to us to be a discrimination in favor of one product as against the other, shall be stopped. With that thought, Mr. Chairman, I represent the venders to the consumer on this proposition, and would appear before you with the request that this committee give due consideration to the bills pending before this committee, from the view point of removing anything which may appear in the way of discrimination as against one product in favor of

the other; but I want to emphasize, Mr. Chairman, the fact that we, as retail dealers, ask nothing in any manner, no legislation in any way, which will aid or assist the retail dealer in selling the product of oleomargarine or butterine for anything but what it absolutely is; and, based upon that thought, Mr. Chairman, we want to urge you to give that due consideration in the framing of any law which may come before you, to remove, as I say, the discrimination in the way of price against a class of customers who, we think, have the same sensibility and the same desire for an appetizing effect on the table as the other class of people have, and should have that gratified without the payment of an additional price for it.

Mr. LEVER. Right there—you speak of two classes of people; you evidently have them in mind?

Mr. GREEN. Yes; if you will pardon me, I am going to lead up to that and amplify fully. Suppose you let me finish on this.

Mr. LEVER. All right.

Mr. GREEN. But I am perfectly willing to answer at this time, and I might just as well, because it is the one point which our experience has demonstrated to us, to create a distinction and a discrimination. My investigation in the city of Peoria, in which I live, among the wholesale dealers in butter and oleomargarine, a number of them handling both products, has resulted in this way: They tell me that the supply of butter is not adequate to the demand. I have also investigated among the retail venders of butter and oleomargarine, and in answer to the inquiry put to them as to the class of people who purchase oleomargarine, without an exception the reply comes that it is sold principally—not altogether, but principally—to the laboring class. Now, I claim that that distinction is made here because the laboring class of people are not and have not been in a position to at all times pay the price that is demanded for commercial butter. In my city for a long time, a number of months now, we have not been able to buy creamery butter at less than 38 to 40 cents a pound, and the laboring man comes in and he can buy oleomargarine.

Mr. STANLEY. What is the cost of oleomargarine?

Mr. GREEN. I am going to answer that right now. That is right along in the line of my argument.

Mr. STANLEY. All right.

Mr. GREEN. The laboring man can purchase oleomargarine. I have investigated that, and there is one grade of oleomargarine that can be bought, we will say, for 17½ cents, and there is a grade that can be bought for 20 cents at retail, and the very highest grade manufactured can be retailed at 25 cents per pound; but the law says that you must eat that oleomargarine without color, you must eat it without its being placed in the same appetizing condition that butter is placed in; and therein comes the discrimination in the very operation of the law that we have to-day, which says that if you want that product on your table in an appetizing condition—you are a laboring man, and you have got to pay, for the purpose of having it made appetizing, 10 cents per pound.

The CHAIRMAN. The prices you have quoted apply to the colored or the uncolored?

Mr. GREEN. To the uncolored.

The CHAIRMAN. And if it was colored?

Mr. GREEN. It would simply add 10 cents a pound to the price. That which they can sell uncolored at 17½ cents they would necessarily have to sell for 27½ cents, and the 20-cent grade would sell for 30 cents, and the 25-cent grade at 35 cents.

Mr. HAWLEY. Suppose, in the process of manufacture, the color was naturally derived from the materials used; would they have to pay the 10-cent tax, if in the process of manufacture they used fat that gave it a yellow color?

Mr. GREEN. I do not know that I am sufficiently clear on the law in that, but my impression is that that has been ruled against.

Mr. HAWLEY. That was the question. I understood it was stated yesterday that that was the natural color, and that that would not be taxed.

The CHAIRMAN. As a matter of fact, what proportion of the oleomargarine sold by the retail trade would you say is colored and what proportion is uncolored?

Mr. GREEN. Our dealers are handling no colored, whatever.

The CHAIRMAN. No colored, whatever?

Mr. GREEN. No colored, whatever.

The CHAIRMAN. Are they buying the uncolored altogether?

Mr. GREEN. Yes. I can answer that, because the present law of the State of Illinois absolutely prohibits the sale of colored oleomargarine, whether it be tax-paid or not.

The CHAIRMAN. Is the oleomargarine you handle of any shade of yellow?

Mr. GREEN. Well, just so slightly that you could not distinguish it. You could not call it a yellow.

The CHAIRMAN. Does anybody complain—do any of your customers who can buy it complain—because of the color?

Mr. GREEN. Yes, sir.

The CHAIRMAN. Is it a practice, within your information, for the manufacturer of oleomargarine, when sending out a tub of the uncolored product, to send along with it a vial of coloring matter so that the dealer who is willing to do so may color it, and in that way evade the payment of the tax?

Mr. GREEN. I know this, Mr. Chairman, that we can go into almost any retail store in the city of Peoria and buy the uncolored oleomargarine, and they will furnish with it, upon request, coloring tablets, in capsules like, that the customer can take home with him and color his own butter.

Mr. STANLEY. Is that the same color that is used by the dairy people?

Mr. GREEN. So far as I know. I am not an expert along that line; but so far as I know.

The CHAIRMAN. But that does not answer my question. We have had information heretofore that such a custom as you describe existed. What I was inquiring was whether it is a common practice.

Mr. GREEN. I know of no such instance.

The CHAIRMAN. For the manufacturer to send such a vial of coloring matter to the retailer?

Mr. GREEN. I know of no such instance under my direct observation wherein I would be competent to testify that the uncolored prod-

uct is colored by the retailer and then sold. I know of no such instance.

Mr. McLAUGHLIN. Do many purchasers take these tablets that are offered to them, for the purpose of coloring their own oleomargarine when they take it home?

Mr. GREEN. I think that is quite common.

Mr. PLUMLEY. I would like to ask how this change in the federal law which you request would improve the conditions in Illinois, if the state law is as you say?

Mr. GREEN. Just as soon as we can get that prohibition lifted, we shall expect to get the prohibition lifted in the State of Illinois.

Mr. PLUMLEY. You expect to get it?

Mr. GREEN. Yes; and it will be our effort to get it.

Mr. PLUMLEY. Have you any objection to the present law except the imposition of the 10-cent tax?

Mr. GREEN. I want to say right here, and this may be included in this question, and I might answer it right here, there has been a great deal of agitation, and there is a great agitation at the present time, on either the high cost of living or the prices, or otherwise, and a great deal of imputation is put upon the retail dealer in the distribution of these products, and a great deal of imputation has been put upon the retail dealer in the vending of oleomargarine. I want to say to you, Mr. Chairman and gentlemen of the committee, I, for one, am not ready to believe, and will not accept the theory, that a majority of the retail dealers are dishonest, and I will not accept the idea or the imputation that nearly all—if we at times accept the statements going through the public press and otherwise, that nearly all—the dishonest merchants seem to congregate or seem to gather in the retail business. I am not willing to accept that theory. I want to say to you, Mr. Chairman and gentlemen of the committee, that I believe that the retail dealers of this country are just as eager to assist Congress in the enforcement of a reasonable law controlling the sale of oleomargarine as any class of merchants in our country. The honest dealer is always hurt and injured by the practices of the dishonest; he always is. Now, leading up to this thought, we would cheerfully assist in bringing about any legislation which will place the product of oleomargarine upon the market and have it sold absolutely upon its merits.

The CHAIRMAN. Have you any suggestion to make to carry that idea into effect? How would you change the existing law so as to more perfectly safeguard the sale of oleomargarine?

Mr. GREEN. I believe, Mr. Chairman, that if oleomargarine were packed by the manufacturer in such packages, of such size as are usually sold—small quantities—over the counter of the retailer it would be desirable. In that connection I would call your attention to the resolutions passed at a number of conventions of our state organizations, as well as our national organization, calling for the packing of oleo in packages of, say, 1, 2, 3, and not to exceed 5 pounds, and possibly in smaller packages. It may be that a half-pound package would be desirable, because there are seemingly some of our people who never get beyond buying a half a pound of oleomargarine or butter at a time, and that would be necessary in order to meet those conditions. A bill providing for the packing in such packages only as the retail trade will demand, as the consumer will demand,

is desirable; put it up in those original packages and, I would say, imprint as deeply as you can on the product itself "oleomargarine," "butterine," or "margarine," or whatever you determine to call it, on the product itself, in the roll or the print, and put it into a carton or package of some kind having the word "oleomargarine" plainly on the package, and put a tax-paid stamp on each package, just the same as you do on your box of cigars or on your box of tobacco which is put up now, and I believe that will come pretty near to it. The greatest danger in the counterfeiting or substituting of oleomargarine for butter lies in the fact that a dealer may be permitted to take a 40-pound, 60-pound, or 80 or 100-pound tub and deal it out of bulk. Your greatest danger of substitution or dishonest sale lies in that fact, and we believe that if this product were put up in packages of that nature and every possible precaution thrown around it, eliminating the discretion of the dealer to pick up his rubber stamp and stamp the paper that this is oleomargarine, but so as to have it absolutely printed on the carton and imprinted on the product itself, it would do away with that danger.

Mr. STANLEY. Right there, do you think it would be a good idea for the law to require all containers of oleomargarine to be of a certain color, so that the person who could not read would be advised by the color if not by the label?

Mr. GREEN. I do not know. That is rather a new question.

Mr. STANLEY. They complain that most of the people who eat oleomargarine in this country can not read, and if that is true would they not in that way be able to identify it by the color of the package?

Mr. HAUGEN. Would you place the name "oleomargarine" on the literature?

Mr. GREEN. On everything that goes around it.

Mr. HAUGEN. Then, you would also provide a penalty for breaking the package or the wrapper?

Mr. GREEN. Yes; I would absolutely prohibit the breaking of an original package.

The CHAIRMAN. Suppose you go one step further and require the retail dealer to keep a record, by name, of every customer to whom he sells one of these packages of oleomargarine; would that be regarded as an unreasonable requirement by the retailers, do you think?

Mr. GREEN. To have each retail dealer make a notation of each pound or quantity of oleo that he sells and to whom he sells it?

The CHAIRMAN. Exactly.

Mr. GREEN. That is a new subject. That I do not know. Our retailers have not really discussed that phase of it. But on the spur of the moment, as far as I am concerned, and I believe that that would represent the feeling of the retailers on that question, I would say that they would be perfectly agreed to do it.

Mr. LEVER. Now, just one step further.

Mr. GREEN. Yes, sir.

Mr. LEVER. Your idea is to prevent this fraud that is being committed by the original-package system?

Mr. GREEN. Yes, sir.

Mr. LEVER. Would you be willing to go one step further along the line suggested by Mr. Stanley and place upon the outer wrapper

of the package of oleomargarine some emblem to indicate to the illiterate people of the country that this package contains oleomargarine, such as a bull's head, or a chicken rooster, or something else; a red band, or a blue band, or a white band, or something to indicate to the illiterate people who may buy the food product who can not read—the word "oleomargarine" is pretty hard to spell, and much harder to pronounce—to indicate to that class of people that they were buying oleomargarine rather than butter?

Mr. GREEN. I would see no objection to that.

Mr. LEVER. Do you think such a law would have a very great tendency toward a reduction of the frauds alleged in the sale of oleomargarine?

Mr. GREEN. I think so.

Mr. LEVER. You think so?

Mr. GREEN. I think so.

Mr. LEVER. You would be willing, also, that process butter and renovated butter and the like of that should be placed under the same restrictions as oleomargarine?

Mr. GREEN. Yes.

Mr. LEVER. Do you think they should be placed under the same restrictions?

Mr. GREEN. I think so; yes, sir.

Mr. HAWLEY. What is the characteristic or material difference between the three grades of oleomargarine that you referred to?

Mr. GREEN. There you go into a scientific field that I am not familiar with.

Mr. HAWLEY. Can you tell anything by looking at them?

Mr. GREEN. By the taste.

Mr. HAWLEY. You do not know what, in the process of manufacture, causes the three grades?

Mr. GREEN. No; I do not know that.

Mr. HAWLEY. Would you have any difficulty in distinguishing by the appearance between oleomargarine and butter?

Mr. GREEN. In what way?

Mr. HAWLEY. Suppose you went into a retail grocery store, and they had the products there for sale, could you distinguish between oleomargarine and butter by the appearance, or anything, in anyway, in any matter of that kind?

Mr. GREEN. The distinguishing feature, as I understand your question, between the two products, without any other method of distinguishing by name or otherwise, but simply by color?

Mr. HAWLEY. Yes; or any matter of appearance? Could you readily distinguish between the two?

Mr. GREEN. Well, that is a question. I have met people in my time and in my experience as a dealer who claimed that they could distinguish oleomargarine almost on sight or upon the taste, and I have met others who claimed that they can not make the distinction.

Mr. HAWLEY. What is your opinion?

Mr. GREEN. But I am going to say, as far as I am concerned, that I do not profess to be a sufficient expert on butter tasting to readily tell the difference between a high grade of oleomargarine and butterine.

Mr. HAWLEY. I was not speaking of butterine, but of butter.

Mr. GREEN. Of butter; that is what I meant to say—of butter.

Mr. HAWLEY. What handicap then arises in the sale of oleomargarine?

Mr. GREEN. In the color.

Mr. HAWLEY. Only in the color?

Mr. GREEN. Yes; the color.

Mr. McLAUGHLIN. Is it your experience that the more nearly it approaches butter in appearance, the better the price that can be obtained for it?

Mr. GREEN. No, sir. Well, that is so in this respect; I would qualify that. If a man determinedly sets out to deceive, he, of course, must have the colored product for deception. But the point is here. To-day there is a wide margin of difference between, of course, the highest product of oleomargarine and the colored creamery and dairy butters which are on the market. The difference in that margin and the added 10-cent tax create an incentive on the part of the dishonest man to color it and sell it for butter. That tax of 10 cents making the margin is the incentive. He can use that advantage, because he can say to his trade "That is not oleomargarine. You know if it was oleomargarine it would have to be sold white." That is where the difference comes in, and therefore that tax acts as an incentive to dishonesty.

The CHAIRMAN. He can pay the tax and still sell his oleomargarine below the price of butter.

Mr. GREEN. He evades the tax, then.

The CHAIRMAN. What?

Mr. GREEN. Then, you see, he does not have to pay the tax. That is, through the evasion of the tax and selling it for butter instead of oleomargarine—

The CHAIRMAN. The point is, when butter is 40 cents a pound and uncolored oleomargarine is 20 cents a pound, you can pay the tax and get the colored oleomargarine, which is cheaper, and substitute it for the butter and sell it for butter 10 cents cheaper than the butter price.

Mr. GREEN. Yes, sir; the dealer can do that; but the man who is violating the law by selling it for butter—he is violating the law, anyway, and he is going to make the 20 cents instead of 10 cents.

The CHAIRMAN. I guess that is right.

Mr. HAWLEY. What percentage of butter from the creameries is colored?

Mr. GREEN. I could not give you any exact data on that, but the opinion I have had—of course not when I was discussing this subject, but as a butter dealer—my impression is that the butter is colored probably eight months in the year.

Mr. HAWLEY. Do you have any evidence of that fact?

Mr. GREEN. Yes, in a meager way. I have been through creameries in adjoining towns to where I live, one formerly operating at Washington, Ill., and one now operating at Metamora, Ill., and I have been in those creameries and I have known the color to go in.

Mr. HAWLEY. You have known of it?

Mr. GREEN. Yes; I have seen it go in.

Mr. LEVER. You do not sell any uncolored butter?

Mr. GREEN. Yes.

Mr. LEVER. I mean in the sense that it is white or uncolored?

Mr. GREENE. No, sir; at least, there is a very poor sale for it. Now, you take dealers that are handling country butter during the winter and early spring months; they will have roll butter come in that is comparatively white; but I will tell you we have a terrific time to get rid of it and sell it.

Mr. LEVER. People do not like to buy it?

Mr. GREEN. They do not like to buy it.

Mr. LEVER. Why do they not like to buy it?

Mr. GREEN. Because it is not appetizing when it is put on the table.

Mr. LEVER. That white butter is just as good as the yellow?

Mr. GREEN. Just as good; every bit.

Mr. LEVER. But the people will not buy it because they want yellow butter?

Mr. GREEN. Yes, sir.

Mr. LEVER. And it is your idea that your customers have a right to buy yellow oleomargarine just the same as they have to buy yellow butter?

Mr. GREEN. Most assuredly.

Mr. LEVER. And a great many of them have the same objection to buying white oleomargarine as they have to buying white butter?

Mr. GREEN. Yes, just the same. On this point I can state positively. I confess that my humble beginning in mercantile life, in 1885 and 1886—about 1886—was as a so-called huckster or peddler, going through the country and picking up country butter, eggs, and poultry. That was my beginning in a commercial career. I would buy butter from the farmers, drive up to their doors and take their fresh-churned product, and it was never more than two days between the time when I picked it up and the time when I delivered it to the retail dealer in the city, and I had my various-sized packages. I had jars and tubs that I would put it in. If I bought a 5-pound lot of butter, I would have a half-gallon jar that I would put that in, and so on, and so on, keeping only one tub for promiscuous small lots. I served the country butter to the dealers in the city. There were seasons in the year when I got butter that was just as white as this piece of china ware on the table here. I would bring that butter in to the retail dealers at Peoria, Ill., and offer it for sale, sweet in every particular, and they would say: "Can't use that; can't use that." My only choice, gentlemen, until I got to the point where I had learned the art of putting color into that white butter, even after it was manufactured, was to take that white butter to the baker, and I sold it ordinarily as baker's butter. Now, tell me that color distinction does not cut any figure! As far as my knowledge goes, the only reason for putting color into creamery butter to-day is to make it appetizing and to bring about a uniformity of color as near as possible the year through.

Mr. HAUGEN. The taste does not run the same in all localities.

Mr. GREEN. Pretty much.

Mr. HAUGEN. I might state for your information that here in Washington they are using white butter pretty much in the hotels. I presume it is largely a matter of taste.

Mr. HAWLEY. In your trips through the country did you find that some more careful housewives made yellow butter, while at the same time others not so careful made a whiter product?

Mr. GREEN. Yes; I have noticed that difference.

Mr. HAWLEY. At the same season of the year?

Mr. GREEN. Yes; I have noticed that. A good old lady, a farmer's wife, when I started out as a young man in this business, said to me: "Mr. Green, I want to give you one thought in your business career. In dealing with the farmers there are two things to steer clear of. The first is, do not tell a farmer's wife that she makes poor butter, and the other is, do not tell her that she has got dirty children." [Laughter.] We bought that butter from all classes of farmers along the road, but we ourselves made quite a distinction in it; and I know when I got it into the market there were some grades of butter we could get 1, 2, and 3 cents a pound more for.

Mr. HAWLEY. I was born on a farm, and I remember, in visiting among the neighbors at certain seasons of the year, at a time when no butter coloring was used in that section of the country at all, some of the housewives would serve good yellow butter on the table and others a whiter product at the same season and under the same feeding conditions. Now, might it not be possible that in the creamery the methods of manufacture would develop the natural color of the product, and it would not be necessary to color it to make it yellow?

Mr. GREEN. I would expect that to a certain extent; yet we all know that the nature of food and grazing at different times of the year has a large influence in imparting color to the butter.

Mr. HAWLEY. It is dependent, then, upon the methods by which the butter is made, after the cream has been gathered from the milk?

Mr. GREEN. Yes; to a certain extent.

Mr. HAWLEY. And the conditions under which the milk and cream are kept?

Mr. GREEN. Yes.

Mr. RUCKER. Has the gentleman from Oregon ever churned any butter in the old-fashioned way?

Mr. HAWLEY. Yes.

Mr. RUCKER. Do you recollect that in churning the butter, if you put too much hot water in, it would make it white?

Mr. HAWLEY. Yes; but neighbors having their cows on the same class of feed would make butter that differed greatly in color.

Mr. RUCKER. Probably some of them used too much hot water.

Mr. HAWLEY. What reason do you give for a repeal of the present law? You spoke of high prices.

Mr. GREEN. Yes. In order to get to our customers a commodity which is wholesome at a price which is within their means; at least a good portion of our customers. I do not include them all.

Mr. HAUGEN. The repeal of the law would not affect the price of oleomargarine?

Mr. GREEN. The repeal of the 10-cent tax on the colored product will affect the price of the colored product.

Mr. HAUGEN. Do you mean to say that the coloring adds to the value?

Mr. GREEN. Not a bit, but it makes it more appetizing.

Mr. HAUGEN. How will it reduce the cost of colored oleomargarine, when people are at the present time furnished with these capsules you referred to?

Mr. GREEN. There you have got to go into another proposition, now. I have seen that done, and I speak from actual experience. It is somewhat of an art to take that capsule of butter color which is furnished with a pound of oleomargarine, and work it in thoroughly and evenly, after the product has been manufactured, and all the consumers have not got onto the art of handling and working butter in that way to get it through and distribute it evenly.

Mr. HAUGEN. I will state to the gentlemen that one of the witnesses from outside of town said that it did not require much of an art to mix it; that it sold for 20 cents a pound, and each customer was furnished with one of these capsules, and they would mix it without any trouble whatever. It is a very easy matter; it is no expense and no trouble. It can be done with no great amount of trouble.

Mr. GREEN. Here is the proposition: You gentlemen are thoroughly familiar, or probably some of you are, with the art of retail merchandising in some of our cities, and you know that the grocer will have a person come in just about five minutes before dinner time and want a quarter of a pound or a half a pound of butter—10 cents' worth—and they carry it right from the store onto their table, and there is no intervening time to color it.

Mr. HAUGEN. Just one more question: Is not the real object in repealing this law, to remove this tax, with the view of selling the oleomargarine for butter?

Mr. GREEN. No, sir.

Mr. HAUGEN. Is not that what was done before the passage of this bill, and—

Mr. GREEN. No, sir.

Mr. HAUGEN. If you will kindly let me ask my question, then you can answer it.

Mr. GREEN. With all due deference to the gentleman, at that time I was probably not in as close connection with conditions as I am to-day, so as to be able to intelligently answer the question positively, but I want to answer it in this way, by saying that whatever may have been the shortcomings of a portion either of the manufacturers or the retail dealers at that time—I will never admit that it was general among the retail dealers, but whatever may have been the practice, either of a portion of the retail dealers or the manufacturers at that time—I believe that sufficient intelligence on the subject of oleomargarine has been acquired from that day until this, so that substitution, evasion, selling it under misrepresentation, is not necessary to-day. The product has established itself as a wholesome product and one which meets the requirements of a large class of people.

Mr. LEVER. Then you believe it should be put on the market for what it is?

Mr. GREEN. Yes, sir. We do not want it any other way; and, Mr. Chairman and gentlemen, and Mr. Haugen, I want to go emphatically on record as saying that I am not for one moment, in my official capacity or individually, defending the dishonest dealer in oleomargarine. We do not want it. We want it simply given a chance upon its merits.

Mr. HAUGEN. Just another question. I fully agree with you, now, as to the integrity of the merchants. I believe they are the highest class of our citizens. We have no better people anywhere. But the

fact of the case is this: That more than 5,000 of these dealers were engaged in the fraudulent sale of this oleomargarine, and we taxed it for the purpose of stamping out frauds. Now, it is proposed that we should repeal this law, and I should like to hear some substantial reason why it should be repealed, and I should like to hear somebody suggest something that might meet the requirements in stamping out the fraud of palming off a counterfeit and selling it at a butter price. You spoke about the 20-cent difference a while ago, and now you propose to do that very thing; you propose now to make the cost 20 cents in place of 10 cents, and therefore the incentive to fraud is that much greater. The very object of this bill was to remove that incentive—the difference in the cost of the two articles. Here was an honest merchant, and here was the temptation to sell one of these articles for the other. That is the testimony of Mr. Swift, that oleomargarine can be manufactured and sold for about 10 cents a pound, and butter was then selling for 20 or 25 cents a pound, and, the difference being 10 or 15 cents a pound, there was the incentive for fraud. The merchant could make 10 or 15 cents a pound by selling the oleomargarine for butter. The testimony is that the manufacturers of oleomargarine provided for a defense fund, and charged the dealers 1 cent a pound, which went into that fund, which was used to defend in the courts any dealers that might be prosecuted for violation of the law. That is the testimony before the committee. Now, it was to remove that very incentive that this law was passed, and we would like to know what we can substitute for it.

Mr. GREEN. I believe I have already answered that question in answering a question by the chairman. If a man is actuated by the intent of committing fraud, he does not need to pay the 10-cent tax now. If he is going to sell oleomargarine for butter, he is going to do it contrary to the law, and if he is going to sell it fraudulently anyway, he will not pay that 10 cents a pound tax, but he will put in the color and make that extra 10 cents; and he commits no greater violation of law than if he had paid the 10 cents.

Mr. HAUGEN. How much of that is there being done? Have you any evidence of it?

Mr. GREEN. Nothing direct; no.

The CHAIRMAN. You testified a moment ago that there was practically no colored oleomargarine sold by the trade?

Mr. GREEN. Under my observation.

The CHAIRMAN. And I believe that the records of the Internal-Revenue Bureau show that about 2½ per cent only of the manufacturers of oleomargarine last year did pay that revenue tax.

Mr. GREEN. Yes.

The CHAIRMAN. So that, as a practical matter, the imposition of the 10-cent tax does not seem to have guarded against fraud or to have produced a revenue.

Mr. HAUGEN. The fact of the case is that the biggest part of it is colored, is it not, but not artificially colored?

Mr. GREEN. I do not understand that.

Mr. HAUGEN. It is colored through the ingredients of the product?

Mr. GREEN. Of oleomargarine?

Mr. HAUGEN. Yes.

Mr. GREEN. No; not that which comes under my observation.

Mr. HAUGEN. We had testimony here the other day to that effect. Under the amendment of the bill that I proposed—

Mr. GREEN. I did not happen to get to see it.

Mr. HAUGEN. Under the amendment to the bill that I offered the last thing in the afternoon it was provided that the word "yellow" should be dropped, and, inserting the words "artificial coloring," it made it possible for the manufacturer to color it during the manufacturing of the oleomargarine, but not to artificially color it. The law provided "in imitation of yellow butter," and that is what made the bill ineffective. At the present time, as I understand it, most of it is colored yellow, and you have now substituted, in place of the tallow, the neutral lard, which gives it the yellow color.

Mr. GREEN. Yes. In order, Mr. Chairman, to put our views squarely on record in this matter—and I feel confident that the merchants whom I represent will coincide with me—in response to the question as to the supervision in the sale of it, I want to make this statement to the committee: I believe that the governmental regulations now require the manufacturers to keep a record of every pound of oleomargarine sold by them. Now, the question put by the chairman was as to whether the retail dealers would be willing to keep a record of all the oleo which they sell. I believe, Mr. Chairman, that will complete the chain whereby you can keep track of and trace down every pound of oleomargarine that goes into the hands of the consumer, and I want to stand here to-day, as representing my people, and in favor of such a restriction. Your manufacturer to-day keeps a record, and if you have the retailer keep a record you can trace every pound. Then the question, probably, of restaurants and hotels will come in, and between those two you can find every hotel and restaurant which purchases oleomargarine, and I do not know how you can get any nearer connection than you can in that way.

Mr. HAUGEN. Why should a record be kept of the sales of oleomargarine any more than of any other product?

Mr. GREEN. As a matter of justice and equity, I do not believe it should be; but it is simply because the opinion prevails that some distinction should be made.

Mr. HAUGEN. Will you confine that to distinction or to fraud practiced?

Mr. GREEN. That would be either that it has been demonstrated that fraud has been practiced or that—

Mr. HAUGEN. You are aware that the commissioner reports that there are many frauds being practiced?

Mr. GREEN. Certainly.

Mr. HAUGEN. You do not want any fraud practiced in the sale of oleomargarine?

Mr. RUCKER. He has said that a dozen times.

Mr. BEALL. You represent the retail merchants?

Mr. GREEN. Yes.

Mr. BEALL. How many different members are there in your organization?

Mr. GREEN. In my State we have about 10,000.

Mr. BEALL. Is that organization found in the different States of the Union?

Mr. GREEN. Yes, sir.

Mr. BEALL. Have you any idea of the total membership of the organization?

Mr. GREEN. I understand that the national organization has a representative here. He can give you that.

Mr. BEALL. Are you an oleomargarine merchant yourself?

Mr. GREEN. Not at the present time.

Mr. BEALL. Have you been?

Mr. GREEN. Yes, sir.

Mr. BEALL. The statement you made in regard to the sale of all the oleomargarine as uncolored I understand applies to your State, to Illinois?

Mr. GREEN. Yes.

Mr. BEALL. Because there is a law there forbidding the sale of oleomargarine either artificially colored or otherwise colored?

Mr. GREEN. Yes.

Mr. BEALL. Is it your opinion that if you were enabled to sell colored oleomargarine there would be a greater demand for it?

Mr. GREEN. Yes.

Mr. BEALL. Is there any hesitancy among your customers about buying the uncolored oleomargarine and accepting this little capsule of color to go with it?

Mr. GREEN. Yes; there is.

Mr. BEALL. There is a question of pride involved?

Mr. GREEN. Yes.

Mr. BEALL. The same question of pride that keeps them from buying the white oleomargarine?

Mr. GREEN. Yes.

Mr. BEALL. Now, you said something about the packages in which oleomargarine comes. How does it come now to the retail dealer?

Mr. GREEN. Well, we have it in various forms.

Mr. BEALL. Does it come in bulk at all?

Mr. GREEN. Some of it.

Mr. BEALL. Some of it comes in bulk?

Mr. GREEN. Yes.

Mr. BEALL. You ladle that out and sell it to your customers just as you would sell butter in bulk?

Mr. GREEN. Yes.

Mr. BEALL. That gives an opportunity for fraud that would not exist if it was all packed in uniform packages of 1, 2, or 3 pounds, or half a pound, or however it might be, with the name of the product stamped on it and on the wrapper?

Mr. GREEN. I think so. I am quite sure of it.

Mr. BEALL. If that change was made, the opportunity for fraud would be very much lessened, would it not?

Mr. GREEN. I think so.

Mr. BEALL. In your experience as a retail dealer, or in your observation, is this uncolored oleomargarine ever sold to farmers or dairy people?

Mr. GREEN. I have known it to be sold that way; yes, sir.

Mr. BEALL. Do you know what they were buying it for?

Mr. GREEN. I could not state as to that.

Mr. BEALL. Do you know whether the dairymen ever buy it for the purpose of using it in the manufacture of butter?

Mr. GREEN. Well, I would not want to go on record on that.

Mr. BEALL. Would you know of any other reason that they would have for buying it?

Mr. GREEN. I would know of none.

Mr. BEALL. Unless they regarded it as a better product for the table than butter, for their own use?

Mr. GREEN. We may have our personal opinions on that, but—

Mr. BEALL. If this law was so changed as to permit the sale of colored oleomargarine without the payment of the tax, is it your judgment that the consumer would get the benefit of that reduction?

Mr. GREEN. I believe he would.

Mr. BEALL. Do you believe that the colored oleomargarine would be sold to him as colored oleomargarine and at the price of oleomargarine rather than at the price of butter?

Mr. GREEN. I believe it would. Let me add, there, that my conclusion is that natural competition will bring that about, and greater education in the use of it.

Mr. RUCKER. It would have a tendency to bring the price of butter down?

Mr. GREEN. I do not know about that. I am not so fearful of that, because the complaint to-day is that there is not a sufficient supply of butter to meet the demand.

Mr. RUCKER. If you had plenty of oleomargarine and it was a good substitute, would it not have a tendency to reduce the price of butter?

Mr. GREEN. That might be debatable ground.

The CHAIRMAN. In your judgment, what proportion of the people who buy oleomargarine would buy butter if oleomargarine were not to be had?

Mr. GREEN. What proportion are now buying it? I do not know that I quite get the question complete.

The CHAIRMAN. The idea that I have in the back of my head is this, that a great many people buy oleomargarine at 20 cents a pound who could not afford to pay 40 cents a pound for butter.

Mr. GREEN. Yes.

The CHAIRMAN. And right on the line of Judge Rucker's question as to whether the wider sale of oleomargarine would injuriously affect the price of butter, I wanted your judgment as to whether oleomargarine really is a competitor of butter, or whether it is sold to people who, if it were not on the market, would not be able to buy butter at all?

Mr. GREEN. I do not know but what I could answer your question in this way, through an investigation that I made, just before coming here, in my city: I asked the dealers in oleomargarine, who were in business and selling oleomargarine at the time this 10-cent tax was put on the colored product, to what extent their sales of oleomargarine decreased after they were compelled to sell it in its natural or white state, and the opinions varied from 50 to 60 and 65 per cent, that the sales were reduced; taking an average, say about 50 per cent. Their sales were reduced to about that extent.

The CHAIRMAN. Did you inquire whether the people who had been buying oleomargarine thereafter bought butter?

Mr. GREEN. No, I did not. I did not press the question that far, but it would be a natural conclusion that they transferred their purchases.

The CHAIRMAN. That is, they would either have to buy butter or do without?

Mr. GREEN. Or do without.

Mr. RUCKER. I just desire to ask the witness a question or two for information. Some suggestion has been made here with reference to requiring retail dealers to keep a record of the name of the party and the quantity of oleomargarine sold in original packages. Suppose I should go into a retail grocery store to buy a pound of oleomargarine, or of butter, either.

Mr. GREEN. Yes.

Mr. RUCKER. What would prevent the clerk in that grocery store from misstating it on the record that he kept? In other words, if he should receive during the year 1,000 pounds of oleomargarine, to make his accounts balance he would have to show a record of sales amounting to 1,000 pounds?

Mr. GREEN. Yes.

Mr. RUCKER. But suppose he wanted to do it, could he not still take the oleomargarine out of the package and sell it as butter, and when I went there I would get oleomargarine; he would sell it to me as butter, and the clerk would go to the record and note down "Sold, 1 pound of oleomargarine," when it was sold to me as butter? In other words, would not that, if it had any tendency at all, have a tendency to cause the commission of crime as a means of covering up accident or unavoidable mistake occasioned by the haste of trade, and would it not also have a tendency to brand with dishonor every retail dealer in the country? So far as I am concerned, I think if you put it in the original package and make the man liable who breaks that package and sells it, that is sufficient protection, and I would not brand the retail grocer with a presumption of crime by requiring him to go through the red-tape formality of stopping and going to his desk to make a record of the sale every time he sold a half a pound of oleomargarine. It is practically impossible for him to stop at the time, every time, to do it, and if he puts it off until the end of the day, he forgets, and he can not do it.

Mr. GREEN. Yes.

The CHAIRMAN. Does not the law require the manufacturer and wholesale dealer to keep a record of all their sales?

Mr. RUCKER. I think that is highly proper.

The CHAIRMAN. Is there any more tendency to fraud there than there would be with the retail dealer?

Mr. RUCKER. The wholesaler ships out in large lots and his transactions are very few in number as compared with the transactions of the local grocer, and it makes no burden on him and there is not the chance of mistake that there would be with the grocer. And then, so far as the wholesaler keeping that record is concerned, I think that is highly proper, because this measure is supposed to be a revenue measure, and it is right and proper to require the wholesaler to keep a record. But I do not believe it is proper to require the retailer to keep a record.

Mr. JELKE. In a city like Pittsburg, where in one retail store they will wait upon 2,000 customers in a day, selling quantities of from half a pound up, do you think a record would be possible there?

Mr. GREEN. I want to admit this: The question came up suddenly, and my purpose in making the statement I made was to show the sincerity of the retail dealer.

Mr. RUCKER. I appreciate that, and that is the very reason I called attention to it.

Mr. GREEN. That is it. A question of that kind coming up hurriedly, and one man speaking for probably 250,000 or 300,000 dealers in a food product in these United States, I claim no one man is competent to do that, and on the spur of the moment; but I can represent them as demonstrating their absolute sincerity in the proposition, and I want to go clearly on record on that proposition, as to the sincerity of their motives.

Mr. RUCKER. I so understood the motive of the gentleman, and so far as I am concerned, he went further in that proposition than I wanted him to do.

Mr. STANLEY. In other words, you would submit to any restriction, even though it be unreasonable and onerous, that would guarantee and demonstrate the honesty of the great mass of the men you represent?

Mr. GREEN. Yes; I want to be clear on that. Of course the other question is open to debate. Here is a different phase of the matter spoken of by Mr. Jelke in Pittsburg; and so it goes. We have got to take all these into consideration. But the purpose of this record would be to aid the revenue officials and those in charge of the enforcement of the police powers of a State to definitely locate violations of the law, and that record would be an aid in doing it. I know it would be a humiliation to the retail dealers for us to say that we have had to consent to anything of the kind; but here is the very proposition you put up—that he sells it to you as butter and enters it on his record as oleomargarine. We do not know what moment an officer of the police department, an officer of the food regulation department, would take that list, and he would say, "Here is Representative Rucker's name on here, and we will just drop over to his house and ask them when they bought oleomargarine." You would have there a clew and a means of demonstration; and you can do that with any other food product.

Mr. RUCKER. I just want to say one word in addition. The suggestion that I made was founded on this somewhat limited observation. A grocery clerk in one of the larger grocery stores having several customers to wait on can not always stop to make the note in the record without inconveniencing somebody. If he postpones it for a moment, then he is immediately engaged with somebody else, and the next minute he is engaged with somebody else, and so it goes, and then when he goes and attempts in good faith to make the record, he makes it wrong, and thereby the merchant becomes subject to criticism and subject to the penalty of the law without any intentional act of wrong in the world.

Mr. GREEN. Yes. Right along that line, that very condition in regard to this commodity has existed by a clerk or somebody else failing to brand the product "oleomargarine," when all that he had to do was to put a rubber stamp on the wrapper of the package; and through that failure the dealer stood accused of the dishonest practice of selling it for butter.

Mr. RUCKER. I am not disposed to brand the man who transacts business with the presumption of wrongdoing.

Mr. FLANDERS. May I ask, Mr. Green, what your present business is?

Mr. GREEN. At present I am secretary of the Retail Merchants' Association of Illinois.

Mr. FLANDERS. And have you any interest in oleomargarine manufacturing?

Mr. GREEN. No, sir.

Mr. FLANDERS. I wanted to ask you that question so as to know that you are speaking from an unbiased standpoint.

Mr. GREEN. None, whatever.

Mr. FLANDERS. You say that if the tax was taken off it would reduce the price of oleomargarine?

Mr. GREEN. I did not say it would reduce the price. It would give the consumer a product in just as appetizing a state, without paying the 10 cents. I do not say it will reduce the price.

Mr. FLANDERS. Then oleomargarine might sell, so far as you can see, for just as much money as it sells for to-day, if the tax does not increase the price, necessarily?

Mr. GREEN. In its white state or in its natural state.

Mr. FLANDERS. Yes; in its natural state. Now, you stated here that the oleomargarine sold in Illinois was not colored?

Mr. GREEN. That is my understanding.

Mr. FLANDERS. And are we to understand you that all the oleomargarine sold in Illinois is white?

Mr. GREEN. Well, under the general acceptance, white; yes.

Mr. FLANDERS. Then if you saw oleomargarine that reputable men told you they had bought in the markets in Chicago that was colored, you would feel that you were mistaken, would you not?

Mr. GREEN. I would not take the broad ground that it is not done in isolated cases. That is the reason that the government department has records of violations of the law.

Mr. FLANDERS. I am not asking these questions for the purpose of attempting to be tricky. Commissioner ——— bought two samples of oleomargarine, and they were both yellow. I asked him why he did not buy it white, and he said that he could not find it.

Mr. BEALL. They were both marked "oleomargarine?"

Mr. FLANDERS. Yes. You say that the color makes oleomargarine as a food appetizing?

Mr. GREEN. In appearance; yes.

Mr. FLANDERS. I want to see if we understand each other. You say that it makes it appetizing?

Mr. GREEN. Yes.

Mr. FLANDERS. There may be a difference in terms. Will you kindly, so that I will not make any mistake hereafter, tell me why you draw the conclusion that it makes it appetizing?

Mr. GREEN. Why?

Mr. FLANDERS. Why you draw that conclusion? I conclude that it is a conclusion on your part. I want you to give me the reasons, not the conclusion.

Mr. GREEN. I would reason it out just the same as I would on any other edible article put upon my table. We very frequently form our opinion, and quite correctly so, of what we eat as to whether we would like it from its appearance before we touch it.

Mr. FLANDERS. Yes.

Mr. GREEN. I think you can put that up to every man in the room; we form that idea from the appearance before we taste it.

Mr. FLANDERS. Then you would base it upon a prejudiced notion about the product, would you not?

Mr. GREEN. Not necessarily. I would base it upon the education that we have received along the line of our taste, and otherwise from a product as it has been presented to us, and is presented to us in nearly all our daily experience.

Mr. FLANDERS. Now, if it should transpire to be a fact that some of the best hotels of the country, catering to the best trade, are known to be using white butter as a matter of preference, would not that militate against your idea that the colored butter is more appetizing?

Mr. GREEN. It would to a certain extent; but I would reply this, that that process of education is, to my mind, a long time distant, and has not as yet at all permeated the entire country.

Mr. FLANDERS. I want to ask you one more question. May it not be possible that the reason asserted by the gentleman from Texas, namely, that it was a matter of pride, be the real reason rather than that it is a matter of appetite or appetizing influences?

Mr. GREEN. I am willing to accept that; but, pardon me, let me qualify that. If you are going to draw the distinction and humiliate a man's pride on just one article, I do not want it to stop there, but I want it to go along on all other lines.

The CHAIRMAN. Let me interject there. Would not that matter of pride account for the difficulty you experienced in selling your white butter?

Mr. GREEN. Most assuredly.

The CHAIRMAN. They did not want to buy white butter for fear their neighbors would think it was oleomargarine?

Mr. GREEN. Oleomargarine or lard.

Mr. LEVER. Is it not true that the class of people who use this white butter is about the same class of folks that walk around with poodle dogs in their arms, and that they have been educated up to this idea because they think it is a little different from the idea of the common herd? [Laughter.]

Mr. GREEN. I do not know that I ever heard that comparison between butter and oleomargarine and poodle dogs, but I do not know but what it is apt.

Mr. FLANDERS. I did not know that the gentleman was an expert on poodle dogs. Now, I want to draw this comparison a little further. You have expressed yourself here as being perfectly willing to do whatever thing was possible and necessary within reasonable limits to stop the fraud. I understand the argument to be principally this: That there is a certain class of people whose pride is affected on account of the color, and in order to cater to that pride of feeling you insist that the color shall remain, which makes it a possible thing that a great fraud shall be perpetrated upon the consuming public; is that it?

Mr. GREEN. I might go into a different question there, if I were permitted to ask you—

Mr. FLANDERS. Mr. Chairman, if the gentleman will answer my question first I will answer his, but that is my reasoning on this, and I want to see whether the gentleman agrees or disagrees with that conclusion.

Mr. GREEN. I do not believe for a moment that by removing the 10-cent tax you will increase fraud. I believe you will decrease it. The very incentive to fraud to-day is the 10-cent tax.

Mr. FLANDERS. Just a moment, now.

Mr. GREEN. Unless you can make your profit or something out of it there is no incentive to fraud.

Mr. FLANDERS. The gentleman entirely misunderstands. I am not making any argument at all for the retention of the 10-cent tax. As a matter of fact, I am rather leading up to a proposition that would assist him in that direction, if he will answer my question. What we are getting at is the fraud. Those I represent stand committed, beyond the scruple of a doubt, to the doing away with the fraud, and we want to do it in such a way as to produce the least possible friction and inconvenience to those who deal, so long as integrity is maintained. What I am getting at is this: Would it not be better to have somewhere a distinguishing line of demarcation between the two products, so that the fraud could not be committed; and would it not be better if that was done, perhaps, to humiliate the pride of these people a little than that the great body of the citizens of this country should be imposed upon with a fraud?

Mr. GREEN. I do not believe it; I do not think so.

The CHAIRMAN. Let me ask this question there: Has that line of demarcation, the color line, been written into the law of Illinois, touching oleomargarine?

Mr. GREEN. Has that line of demarcation been written into the Illinois law? Is that the question?

The CHAIRMAN. Yes.

Mr. GREEN. Yes, sir.

The CHAIRMAN. How long has there been a law in Illinois forbidding the sale of yellow oleomargarine, or artificially colored oleomargarine?

Mr. GREEN. I do not know that I can give the exact date. I think, if I remember rightly, that was incorporated into the first pure-food law enacted in the State.

The CHAIRMAN. Nearly ten years ago?

Mr. GREEN. Yes, sir.

The CHAIRMAN. Has it prevented fraud?

Mr. GREEN. I do not think so.

Mr. SULLIVAN. Mr. Chairman, may I inject a suggestion right here? The law in question was confirmed by the supreme court on the 1st day, I think, of last January.

The CHAIRMAN. There has been a law in Illinois, has there not?

Mr. SULLIVAN. It was sustained by three judges there.

The CHAIRMAN. The point that I had in mind is that in a great many of the States, as well as in the federal statutes, the distinction of the color line has been used in the attempt to enforce the honest sale of oleomargarine, and I wanted the opinion of the witness as to whether it had been successful in that matter.

Mr. GREEN. In my opinion it has not been.

Mr. STANLEY. As to the date of this law, the former oleomargarine hearings, published in 1901, give the State of Illinois, if I am not very much mistaken, as one of the States forbidding the sale of oleomargarine at all.

Mr. GREEN. I think that was incorporated in the first pure-food law enacted in the State of Illinois, but I do not remember the exact date. I want to answer Mr. Flanders as to my conception of fraud. You speak of fraud. Can a fraud be perpetrated without particularly injuring the people—unless it particularly injures the people? Now, assuming that oleomargarine is sold for butter, does it, in its fullest sense, perpetrate a fraud, because nobody is injured under it? But we do not want even that; we do not want it. But I contend this, Mr. Chairman, that the argument brought here against the enforcement of law is as much of a reflection upon the departments which have the enforcement of law in hand as anything else. We are agreed on this proposition, that the only purpose of a distinguishing mark on this matter is to have it sold for what it really is. The basis of all pure-food legislation in the Union, or in every State in the Union, is simply to have the label tell the truth; and in regard to the thousand and one other food products manufactured you have no greater protection against fraud being perpetrated, against the goods being sold contrary to what they are marked, than you have in the instance of oleomargarine; and the same police power that gives you regulation of those things, that prevents violation, that prosecutes for violation, that same law should be able to detect and unearth the violations of the law in regard to oleomargarine and prosecute for them.

Mr. FLANDERS. One more question. The gentleman would ask me a question as to whether I thought a fraud was perpetrated if you gave a man one material when he asked for another.

Mr. GREEN. Without injuring him? You have not injured him.

Mr. FLANDERS. If I want a new milch cow, and I go to you and I buy a milch cow from you and you send me a bull, am I injured?

Mr. GREEN. Yes; because you can not draw milk from that bull; or I would not try to. You might.

Mr. FLANDERS. I am glad that he tells me he would not try it, because I did not know but he would. Is not the fundamental principle involved in all the pure-food laws of the United States, that the consumer has a right to judge of the commodity he buys and get what he asks for?

Mr. GREEN. Yes.

Mr. FLANDERS. Then, are we going too far when we ask that a commodity be so made and so handled that the ultimate consumer may get what he wants for consumption?

Mr. GREEN. That is what we want. We do not want anything else.

Mr. FLANDERS. Do you think that the packages referred to by the gentleman as being colored and labeled and marked and branded would protect all the consumers from deception? Let me make the question a little broader. If oleomargarine is colored to look like butter and is made to smell like butter and is made to taste like butter and is done up into these packages, would that, in your judgment, insure protection to the ultimate consumer always?

Mr. GREEN. I think so. Now let me qualify it by saying, so far as it is possible for any law to protect. You do not want to confine

yourself here, so far as this protection is concerned, because we have experienced where the law does not protect; but, as near as the law is able to protect.

Mr. FLANDERS. The gentleman is drawing conclusions beyond my question. That is what I am working up to, to see if there is not a possibility of protecting something by law that this suggestion does not reach. Now, when the hotel keeper and the restaurant keeper, or the proprietor of a place of public entertainment—one man—makes a purchase, he buys for 50 or 500 or 5,000 people; and there is one purchaser, and he is not injured. If he gets that product home, and before he puts it on the table he takes a knife and presses out the marks on it, and it looks like butter and smells like butter and tastes like butter, what protects the consumers, 5,000 of them, who may eat that at the table there?

Mr. GREEN. Right there was the thought that encouraged me to admit and accept the suggestion put to me as to the retail dealer keeping a list of the parties to whom he sold. I believe I have already made the statement that that would complete the chain. To-day the manufacturer must make a record and keep a record of every pound of oleomargarine which he sells. If the hotel keeper buys his butter from the manufacturer, the list kept on file in the office of the manufacturer reveals the fact that the New Willard Hotel, or any other hotel—not wanting to single out any one, but just taking that for illustration—has bought so many pounds of oleomargarine. Your police department can trace that down. We have regulations in the State of Illinois to-day so that no hotel dares to serve oleomargarine unless they have a placard in plain view in the dining room of the hotel, "We serve oleomargarine;" and the same rule applies to restaurants. Now, take it down a little further, and if that record were compulsory and was kept by the retailer, what other avenues would that hotel have of getting its butter except from the wholesaler or the retailer? There, then, is your record in complete form, from the manufacturer to the consumer, so that your police department can investigate and enforce those rules among the hotel keepers and restaurant men to put up that placard, which is absolutely necessary.

Mr. FLANDERS. Mr. Chairman, as a matter of fact, they have that law in Illinois.

Mr. GREEN. Yes.

Mr. FLANDERS. As a matter of fact, in all places where they serve oleomargarine, do you know whether they put those signs up and comply with the law?

Mr. GREEN. That is a matter of police regulation.

Mr. FLANDERS. Yes.

Mr. GREEN. And enforcement of law, which is no stronger in that instance, possibly, than it is in a thousand and one other instances.

The CHAIRMAN. And if the retailer were required to keep a list of the men to whom he sold oleomargarine, would it not vastly assist the local police authorities in enforcing your placard law?

Mr. GREEN. That is just the point I made.

The CHAIRMAN. That is a strong point, Mr. Flanders.

Mr. BEALL. Do you not think that if the dairy interests showed as much energy in seeing that such a law as you have in Illinois is enforced as they do in insisting upon restrictions being placed by

Congress around the manufacture and sale of oleomargarine the law would be a little better enforced than it is now?

Mr. GREEN. Well, I do not know. Sometimes our energies are not always directed in the channels that would bring us the most immediate relief or the greatest relief.

Mr. RUCKER. I believe it is practically agreed between yourself and Mr. Flanders and Mr. Green that the record kept by the groceryman and the placard stuck up in the dining room would protect the hotel guests and the members of their families?

The CHAIRMAN. I do not know whether Mr. Flanders agrees or not. It seems to me it makes a pretty strong case.

Mr. RUCKER. If you are going to do that, sometimes I eat dinner away from home, and I think you ought to extend that to the home and make a man who uses oleomargarine on his own table stick that placard up in his own dining room, so that his family and his guests might be protected also. [Laughter.]

Mr. HAUGEN. Suppose a man went and bought a pound of oleomargarine. Would there be any way of tracing it to that extent?

Mr. GREEN. The name of the party would be on the record.

Mr. HAUGEN. His name might be John Jones.

Mr. GREEN. You could trace that down; you could find John Jones, and where he took it to.

Mr. FLANDERS. My experience in enforcing laws and police regulations leads me to this suggestion. I have had an experience of a quarter of a century in that. The plan suggested means a great deal of police work. To my mind it suggests a great deal of friction to produce a result that could be produced with less friction and with no material damage to anybody, so far as is apparent here, except possibly as to the question of pride; and it seems to me the proposition that the gentleman is now putting is that you are balancing up the question of pride in some quarters against the question of the great fraud that we want to stop.

The CHAIRMAN. The trouble with that plan, Mr. Flanders, if you will allow me to suggest—you have opened up that subject yourself—is that it has not worked in the past. You have been drawing the color line for years and it has not accomplished the purpose, and you come here now asking for additional legislation on the ground that this has utterly failed. I just wondered if you could not thrash out something else; whether, one method having admittedly failed, we might not try something else.

Mr. FLANDERS. May I ask permission to say a word in reply to the chairman? I had not supposed that that conclusion had been reached. This law has only been on the statute books eight years.

The CHAIRMAN. This law admittedly failed because of the fact that the 10-cent tax applies only where there is artificial coloration. Between 80 and 90 per cent of the oleomargarine sold to-day has the color of yellow, from all the evidence I can find, and about one-seventeenth or one-eighteenth of it pays the 10-cent tax. But I want to come to the state law on the question you have just raised. In the State of New York, until last year, hardly a pound of oleomargarine was sold except it was sold clandestinely, except it was sold as butter. The color line has worked in New York absolutely for twenty-four years.

The CHAIRMAN. I misunderstood the testimony, then.

Mr. RUCKER. May I ask the gentleman just one question, for information?

Mr. FLANDERS. Yes.

Mr. RUCKER. Would you, in a few words, give us your remedy for possible frauds?

Mr. FLANDERS. I have been here a number of days, and while I have come here with some views, I am open to learn, and I am trying to learn, and I am gradually reaching the conclusion that we must not allow two commodities to be put up or made in such form that the average consumer is liable to think that the one is the other; that the moment you allow them to be made so that the consumer may mistake the one for the other, you make the proposition of substitution possible. Substitution is not, and can not be, except under certain circumstances, competition.

I was asked the question the other day, Do you want to have legislation to injure the oleomargarine interests? I intended to ask this gentleman if he wanted legislation to injure the butter interests. My answer was no, and I expect his would be the same. I do not think either of us wants to injure the legitimate interests of the other. All my information is that the legitimate way to draw the line is to draw it in such way that the man who puts the food in his stomach may know beyond the peradventure of a doubt what he is taking in, and when he has that right anywhere from purchasing in the store down to eating it on the table, then you have got honest competition, which is what we pray for.

Mr. RUCKER. I want to ask one other question, because that does not answer directly the question I wanted answered.

Mr. FLANDERS. Yes.

Mr. RUCKER. What particular language would you use to accomplish that? What particular line of demarcation would you employ in the bill?

Mr. FLANDERS. I will word now a law as I would have it, leaving the amount of tax out for you to suggest, or we will suppose I use the word "zero" for that; not meaning, however, that I would not have any tax at all. I would have some tax. "Oleomargarine shall pay a tax of — cents per pound: *Provided, however,* That no oleomargarine shall be allowed to be made in this country in imitation or semblance of butter of any shade of yellow."

Mr. RUCKER. That, then, I understand you, would prohibit, if the law was rigidly enforced, as it ought to be——

Mr. FLANDERS. Yes.

Mr. RUCKER (continuing). And a law is worse than none that is not enforced—that would practically prohibit the manufacture of any oleomargarine?

Mr. FLANDERS. I do not believe so.

Mr. RUCKER. Do you not understand that all oleomargarine has some shade of color, very indistinct, possibly, but some shade of yellow?

Mr. FLANDERS. No; I do not.

Mr. RUCKER. In other words, do you think it is all white?

Mr. FLANDERS. Mr. Chairman, in answer to that question I would say this: That it is my judgment, based on what experience I have had, that the courts always give a reasonable interpretation to language. I do not believe that they would interpret that to mean a

shade of yellow not to be detected by the eye of the ordinary observer or purchaser who was not color-blind.

Mr. STANLEY. Right there you speak of the rights of the oleomargarine manufacturer and the rights of the dairyman.

Mr. FLANDERS. Yes.

Mr. STANLEY. I am not concerned as to the prosperity of either, as compared with the rights of the millions of men who are not either in your business or his.

Mr. FLANDERS. Yes.

Mr. STANLEY. Do you believe the consumer has any rights at all, any inherent right to buy a palatable product and have it sold to him honestly?

Mr. FLANDERS. Mr. Chairman, I am thankful to the gentleman for asking me that question, because I see that my speaking here raises a misapprehension. It has transpired that just at the present time I am president of an organization known as the National Dairy Union. It would seem, as appears from the question asked by the gentleman, that in my appearance here I might be regarded solely as an advocate of the dairy interests. For a quarter of a century I have been laboring in the State of New York for the preservation of the rights of the people right along the line you talk about. When we began to enforce our pure-food law, men came into our office and said: "If we can not put coloring matter into certain things we can not sell them. You are robbing the people of their rights." But they have taken the coloring matter out, and it has made no difference in their sales. They told us that they could not do without putting ground cereals into pepper; that there would not be pepper enough in the world for the manufacture, but they have done it.

Mr. STANLEY. That was adulterating.

Mr. FLANDERS. Yes; it was. But I will put it in this way: I am standing here for the people's rights; that is the motive that brings me here; and I do say that the people should have the right to buy what they want, so long as it is not poison or something to do harm with, in the realm of food products, and that they should be entitled to know what they are getting. And I want to say this, I use the word "buy" or the word "sell" in the sense of getting and consuming also. That same principle or doctrine applies to the man at the public table as it does to the man purchasing over the public counter. It is my reasoning, my belief, when they are allowed to make this look like butter and smell like butter and taste like butter, that while the manufacturer in his establishment puts it out as oleomargarine, properly branded, and does not deceive anybody, he is making a product in such form that it ultimately may be used to perpetrate a fraud, and my experience proves, and history proves, that that fraud has been perpetrated to a large extent. We want to stop the fraud.

The CHAIRMAN. From what you have said and from what appears in evidence here it looks to me as if the suggestions which have been made, particularly if you follow them to the extent indicated by Mr. Lever, of putting some distinguishing color or mark on the outside of the package of oleomargarine and enforcing its sale in the original package and keeping a record of that sale, will absolutely safeguard the product in every case except where it is served upon the table of a hotel or a restaurant.

Mr. FLANDERS. I think so.

The CHAIRMAN. That narrows the whole proposition, then, down to the matter of protecting the customer of the restaurant or hotel. Under the present law, and under the law which you propose, there would be nothing to prevent a restaurant keeper, who was willing to take the risk of prosecution, from himself coloring his white oleomargarine and serving it to his customers. Now, if there was a public record where the police officers of the State could go and get the names of purchasers of oleomargarine, would it not make it much easier to detect that sort of an offense than it is now?

Mr. FLANDERS. Mr. Chairman, if those records were kept properly, it would make it easier for the police officers to trace oleomargarine that was being used in places of public entertainment.

The CHAIRMAN. Now, let me follow that right up there.

Mr. FLANDERS. Yes.

The CHAIRMAN. I do not see how your color line is going to improve the present situation as regards hotels and restaurants, for the reason that a man who is willing to violate a law at one point is likely to be willing to violate it at another, and a man who is willing to sell oleomargarine on his restaurant table in violation of the state law would certainly not be above coloring it so that he might sell it there.

Mr. FLANDERS. Mr. Chairman, I understand that oleomargarine is manufactured in few places and much in quantity, and when they color it they do it on the wholesale plan at the minimum cost, and with convenience that can not be accomplished by individuals in a small way in many places. The temptation to deceive the public in that way would be reduced to the minimum, at least, by the fact that it was harder to accomplish. When you allow the manufacturer, in my judgment, to put the goods up in that form, you are simply putting out a means that has a tendency to teach the people running these public places to deceive the customer, and I think we ought to reduce that to the minimum by keeping the line of demarcation clean and clear between them. I was asked the question the other day, Would you reverse the order and let the butter people have a distinct color aside from yellow and leave the yellow to the oleomargarine people? I assume the man that asked that question, in the eagerness of his thought, did not stop to think what he was asking, but I answered no; and it is for the reason that we can not take the yellow color out of butter when the cow is eating succulent food. But so far as I am concerned, if that could be done, I would say yes, because we want the line of demarcation between the two commodities such that the people can not be deceived.

Mr. BEALL. Can you take the yellow color out of oleomargarine, if you use the cotton-seed oil, for instance, in the production of oleomargarine?

Mr. FLANDERS. Mr. Chairman and the gentleman from Texas, my answer to that is this, that I do not understand that oleomargarine, when and as it is ordinarily made, has a yellow color that is easily detected, or detected by the eye. My reason for stating that is this, when they first made oleomargarine they used an artificial coloration, and when that tax of 10 cents a pound was put upon the commodity colored that way, they used every chemist and all the scientists they could get for a number of years before they could get materials that would produce the product which they are now making, that would

have the yellow color of butter. To my understanding, it is a fact that it has cost them effort and energy and money and time to produce that result, and it is not a natural condition.

Mr. BEALL. You say that because oleomargarine can be made to look like butter and to smell like butter and to taste like butter the law should step in?

Mr. FLANDERS. Just a moment. Will you correct that? I do not say it can be; I said they make it that way, designedly.

Mr. BEALL. Because it is made to look like butter and taste like butter and smell like butter——

Mr. FLANDERS. Yes.

Mr. BEALL (continuing). That the law ought to step in and give you, as you say, a chance for competition instead of substitution.

Mr. FLANDERS. Yes.

Mr. BEALL. Now, you have lived in New York for a good many years?

Mr. FLANDERS. In New York State.

Mr. BEALL. In New York State?

Mr. FLANDERS. Yes.

Mr. BEALL. You can remember the time when they went down onto the lakes and rivers and cut ice during the winter time and put it in houses and in the summer shipped it all over the country. That practice may prevail to some extent now. Throughout the country, though, a process has been originated by which they can make something that looks like the river ice and smells like the river ice and tastes like the river ice.

Mr. RUCKER. And feels like it.

Mr. BEALL. And feels like the river ice. Do you want Congress to come in and by some sort of legislation discriminate against the artificial ice in favor of the natural ice?

Mr. FLANDERS. No.

Mr. BEALL. If not, why not?

Mr. FLANDERS. The gentleman's analogy is not correct.

Mr. BEALL. Show the distinction.

Mr. FLANDERS. I will show you the distinction. You can not find one chunk of ice in five hundred that is as clean and clear and as transparent as ice that is made artificially. Naturally frozen ice has two or three layers, and there is more or less of that material that comes down in the river, frozen in it, and it is easily distinguished. But if a man sold me for artificial ice, ice taken off of a pond or a river that had material in it that I did not want, I should say that he had committed a fraud, and he should be answerable.

Mr. BEALL. You would call it a fraud? A man who sells you a natural instead of an artificial product is perpetrating a fraud?

Mr. FLANDERS. I put it this way. The man that misrepresents the fact, irrespective of whether it is related to the artificial or the natural, is the man who has committed the fraud, and I would be after that fraud, irrespective of whether it hit my product or his.

Mr. BEALL. Do you not think that it frequently happens that artificial ice is sold for the lake ice?

Mr. FLANDERS. I do not know.

Mr. BEALL. Or the lake ice is sold for artificial ice?

Mr. FLANDERS. I do not know. So far as my experience goes, that has never been done. There is a plant in Albany.

Mr. STANLEY. As I understand these hearings, butter under some conditions is made absolutely white, or practically white?

Mr. FLANDERS. Yes.

Mr. STANLEY. It is butter?

Mr. FLANDERS. Yes.

Mr. STANLEY. Butter under other conditions is yellow, either by artificial process or by a natural process?

Mr. FLANDERS. Yes.

Mr. STANLEY. Both are butter, are they not?

Mr. FLANDERS. Yes.

Mr. STANLEY. Then if oleomargarine is sold white it is still as much in imitation of butter as if it were sold yellow, is it not?

Mr. FLANDERS. Some kinds of butter.

Mr. STANLEY. Some kinds of butter. Then your purpose in this legislation is not to prevent an imitation of butter, but to force these people to continue to sell their product as near like an inferior quality of butter as possible?

Mr. FLANDERS. No, sir.

Mr. RUCKER. May I ask a question in that connection?

Mr. FLANDERS. I hope that I will not forget this gentleman's question. I would like to answer it.

The CHAIRMAN. We all owe an apology to Mr. Green. He is the witness on the stand.

Mr. GREEN. I am very patient, Mr. Chairman. I did not know whether I was the witness or not.

Mr. RUCKER. Mr. Flanders, as I recall your statement a moment ago, you favor a law providing that no oleomargarine should be manufactured in imitation of butter or that may look, smell, or taste like butter—

Mr. FLANDERS. Of any shade of yellow.

Mr. RUCKER. I was going to say, of any shade of yellow?

Mr. FLANDERS. Yes.

Mr. RUCKER. Your purpose in making that law would be to make it as far as possible impossible to practice a fraud upon the consumer?

Mr. FLANDERS. Yes.

Mr. RUCKER. Since coming here this morning we have been told by my colleague on the right what was confirmed by the gentleman from New York—that some of the best hotels are now using white butter.

Mr. FLANDERS. Yes.

Mr. RUCKER. Oleomargarine is white?

Mr. FLANDERS. Yes.

Mr. RUCKER. Now, you want to protect the consumer against oleomargarine, and it must be the yellow variety and not the white variety?

Mr. FLANDERS. Yes.

Mr. RUCKER. In other words, you are perfectly willing to let these people who live at these high-toned hotels suffer? We do not give them any protection, or do not attempt to give them any protection.

Mr. FLANDERS. Answering the question, the gentleman says, "You are perfectly willing." Answer, "No."

Mr. RUCKER. There is no suggestion in this legislation to protect those people at the hotels who use white butter?

Mr. FLANDERS. No.

Mr. RUCKER. Now, if it is true that they are using white butter and these gentlemen color their oleomargarine yellow, then the hotel guest is pretty well protected.

Mr. FLANDERS. The gentleman has raised a question that has bothered me quite a little. I go further, I think, in my reasoning than the Constitution would permit us to go in law. I would carry it to the extent that the line of demarcation should be so clear from a moral standpoint that all butter should be compelled to be made yellow and no oleomargarine should be allowed to be made yellow. But the difficulty is, if we passed a law providing that white butter must be colored I think it would not stand the constitutional test.

The CHAIRMAN. Then is it not just as unconstitutional to pass a law providing that oleomargarine shall not be colored?

Mr. FLANDERS. No; I do not think so. That law has been sustained in the United States courts.

Mr. STANLEY. The reasoning still remains that could apply to this other.

Mr. FLANDERS. Not quite. The ground on which the courts sustained the anticoloring law is, that sold in that form it was a counterfeit or a fraud, and was fairly within the police power. But now you come to the other proposition, and the gentleman mistook me a little when said that I would not protect. I would protect if I could, but I do not think I can. You were not quoting me.

The CHAIRMAN. The gentlemen are complaining that the time allowed to their side of the question is being absorbed by the other side. We understand that Mr. Flanders has gone into this by request of the committee, but we will now let Mr. Green continue.

Mr. GREEN. Mr. Chairman, I do not know that I have anything further to say, but this one thought I will present. I am perfectly familiar with pure-food legislation in our State, and somewhat with the national food law, and in my observation, when the food law was put into operation in Illinois, I was in the retail grocery business, and I did notice that when we bought lemon extract under the operation of the food law, it was devoid of the color that it formerly had, and I did notice that vanilla extract that we purchased after the food law went into effect was devoid of the color that it formerly had, and so on with many other articles. The purpose of the food law was, as I think I stated, to let the label tell the truth, and in telling that truth it presumes that the product put upon the market is put upon the market in its natural state.

Now, in that connection, Mr. Chairman, in connection with this proposition that in the full enforcement, with the full intent, of the pure-food law, let the label tell the truth and let the product be marketed in its natural state. I want to say this on behalf of the retailers of these United States, that if you will enact a law prohibiting the introduction of color into cheese, butter, and other dairy products, I will withdraw, on behalf of our people, all argument against permitting color to be put into oleomargarine. Let it comply with the full intent of the pure-food law. Why is there embodied in the Illinois food law, why is there embodied in the federal food law, a provision that color may be put into creamery butter or dairy prod-

ucts, providing it is harmless? Why is it? The color is no more harmful in oleomargarine or butterine than it is in butter, but that distinction is absolutely made; and yet the purpose and the intent of the food law, gentlemen, is that the product may reach the consumer absolutely in its natural state, or without deception, and if there is deception, then it shall be stated upon the label. Mr. Chairman and gentlemen of the committee, if you will enact a law providing even this far, that not an ounce of butter or cheese or any dairy product shall be permitted to be put upon the market except, in the event that color is used in the product, it shall be printed upon every label and package "This package contains color," and put it then upon the basis of every other food product marketed in this land, we will withdraw all our objection.

Mr. Chairman, in all fairness I have stated, in the beginning, we have no greater interest in the one than in the other. The only interest we have as retail dealers is as distributors, vending those products to the consumer in the packages or in the quantities and amounts demanded by the consumer. That is the only interest we have in the matter, and we find that our people do have that sensibility, whether it be pride or otherwise; and we do not rob them of it in any other direction when it comes as plainly in view as it does in that, and we can not stifle the sensibilities of these people, and they have a right to demand it, and as long as the distinction is made in any one product we must have an equal advantage for other products. And I do say, Mr. Chairman, that no one and no class of people comes closer to the hearts of the people than the retail dealers, and particularly those who vend food products. No class of people in the country comes closer to the hearts of the people than they do, and I want to tell you that there are instances where we come in contact with those people that are struggling for existence, even in our very prosperous times. I have a pity to-day for the man who must labor for \$2 or \$2.25 a day. I have a pity for him, and yet at the same time I have the same regard for that man's sensibilities as I have for the sensibilities of the man who can pay double or treble or ten times the price for a commodity. And right at that point, Mr. Chairman, it is a question of attacking those sensibilities, and it is a question of the retail vender of food products being put face to face with that proposition of sensibility every time he offers that product for sale; and that is the reason, mainly, gentlemen, that we stand here and argue the proposition as we do. We ask for consideration for a law which will be just in its provisions to the dealer as well as to the consumer, one fully safeguarding the interests of the manufacturer and the consumer, safeguarding the interests of the butter manufacturer and giving him no special privileges, which he absolutely does enjoy in the fact that the law contemplates the right to him to color his product, and in fact every product turned out from the dairy, but denies it to another legitimate product which is wholesome and desirable on the part of a very great mass of the people of our State. I thank you.

Mr. HAUGEN. Do you object to the present quarter-cent tax on colored goods?

Mr. GREEN. No, sir.

Mr. HAUGEN. Are you in favor of the Burleson bill?

Mr. GREEN. As far as I understand it, I believe it is——

Mr. HAUGEN. You indorse it?

Mr. GREEN. Yes.

Mr. HAUGEN. That repeals all the tax.

Mr. GREEN. All the tax?

Mr. HAUGEN. Yes.

Mr. GREEN. It puts on a license tax.

Mr. HAUGEN. I am speaking of the quarter of a cent tax.

Mr. GREEN. As I understand, the tax is repealed in the Burleson bill on the product itself, but a license tax is provided for distributors; is not that true?

Mr. HAUGEN. The tax on the product is repealed entirely.

Mr. GREEN. So far as that is concerned, Mr. Chairman, the only demand I would make for the purpose of a tax at all would be upon the claim, and seemingly established usage, or the established purpose of the Government, that they can more easily maintain police supervision over an article that is taxed. Aside from that purpose of giving police supervision over the product, I would say that there is, in justice and equity, no right to levy a tax. But when you establish police jurisdiction, to permit of its enforcement more readily, probably we would acquiesce in a nominal tax. But outside of that question, Mr. Chairman, I believe it is borne out by the Internal-Revenue Department and by every internal-revenue collector in our Union that since the advent of the 10-cent per pound tax on colored oleomargarine the vigilance of the department has had to be increased many fold in order to detect violations of the law. I know in a personal conversation with the collector of Denver, Colo., in the past summer, he said, "We have had to increase our efficiency and our vigilance in order to detect violations." The collector from my district has stated to me, in person, that they have had to increase their vigilance since the advent of the 10-cent tax. This all goes to demonstrate that the addition of that tax has not benefited the public, but has enlarged the incentive for violation of the law, and increased, and necessarily had to increase, the vigilance of the department in watching for violations.

Mr. HAUGEN. That goes to prove, then, that fraud is being perpetrated?

Mr. GREEN. It is being attempted; yes; and I presume is being perpetrated.

The CHAIRMAN. If there are no more questions, that is all. Mr. McCarthy, I understand you have one or two gentlemen here who want to go away this afternoon and who can probably make a brief statement that will be satisfactory to them.

Mr. MCCARTHY. Mr. Chairman, if you will permit, two of those gentlemen have prepared their statements in written form, and, if it would meet the approval of the committee, they will just file those and save your time.

The CHAIRMAN. We would be very glad to have them.

Mr. MCCARTHY. There is one other gentleman—Mr. T. P. Sullivan, representing the National Retail Grocers' Association of America—who did want to make a short address on behalf of the 140,000 members of that association, but Mr. Green seems to have covered the ground very thoroughly, and Mr. Sullivan would just like to ask permission to file some letters which he has here and let his statement go.

Mr. STANLEY. I suggest that Mr. Sullivan make a statement with those letters of the number of people he represents.

Mr. McCARTHY. Yes.

The CHAIRMAN. Without objection, such information as Mr. Sullivan desires to submit will be included in the record.

Mr. McCARTHY. I would like to say that we are doing this out of deference to the committee and in order to expedite their work.

The CHAIRMAN. The committee appreciates that very much. The gentlemen will realize that the members of this committee are very busy with other matters, and that it is a difficult matter for them to give their entire time, even for one day, to a hearing of this nature, and it is for that reason that we have been obliged to limit the hours of the hearing yesterday and to-day. We appreciate very much the courtesy that the gentlemen have shown who have appeared before the committee.

Mr. McCARTHY. I hope the committee will also give us credit for the time we are not getting, under the original agreement, in case we require it later on.

The CHAIRMAN. That is a bridge we can cross when we come to it.

Mr. McCARTHY. Very well, Mr. Chairman; I just wanted to mention it.

Mr. HAUGEN. The time was taken up this morning.

Mr. JELKE. Mr. Haugen's agreement was that we should have all day yesterday and all day to-day.

The CHAIRMAN. If there is nothing more at this time, the committee will stand adjourned.

Mr. SULLIVAN. I would like to say just a word, Mr. Chairman.

The CHAIRMAN. Very well.

STATEMENT OF MR. T. P. SULLIVAN, PRESIDENT OF THE NATIONAL RETAIL GROCERS' ASSOCIATION OF THE UNITED STATES.

Mr. SULLIVAN. I hold in my hand an indorsement from the Chicago Butter and Egg Board of the one, two, and three pound package proposition of the present law which you contemplate passing. I will read these letters if you wish, or file them, just as you say.

The CHAIRMAN. I believe you can file them, if you will. The committee will then have them available.

Mr. SULLIVAN. I desire to say that I indorse everything that Mr. Green has said. He has covered the subject very thoroughly, and these documents are from four men that I happened to meet on the day before I came here.

Mr. STANLEY. Will you state to the reporter the number of persons or concerns you represent?

Mr. SULLIVAN. I represent the National Association of Retail Grocers. We represent about 28 States and probably 140,000 members. The secretary, of course, has the accurate reports. I just state this from memory. I consider that we represent, in fact, over five times that many consumers, as I believe that each family would probably consist of five persons.

Mr. STANLEY. These men have no interest, as a class, in the manufacture of either butter or oleomargarine?

Mr. SULLIVAN. Absolutely none.

Mr. STANLEY. Their only interest is to satisfy the consumer?

Mr. SULLIVAN. Yes; and to sell the product for what it is. I could go into the matter thoroughly, but I have not the time. I have it, but you folks do not seem to have it.

Mr. HAUGEN. What is the object of your association?

Mr. SULLIVAN. We want this business brought back into its legitimate channels.

Mr. HAUGEN. Are you in favor of the Burleson bill?

Mr. SULLIVAN. We are in favor of the one, two, three and four pound bricks, stamped and sold.

Mr. HAUGEN. You are in favor of repealing the present law?

Mr. SULLIVAN. I am in favor of a uniform tax.

Mr. HAUGEN. In other words, you are in favor of the Burleson bill?

Mr. SULLIVAN. I do not know about the Burleson bill.

Mr. HAUGEN. That abolishes the tax entirely.

Mr. SULLIVAN. I am in favor of retaining the tax, and of supervision and inspection by the police power.

Mr. HAUGEN. You are in favor of a small tax?

Mr. SULLIVAN. Yes, sir.

Mr. HAUGEN. What is the membership of your association?

Mr. SULLIVAN. About 140,000, at an average of 5,000 to the State.

Mr. HAUGEN. How many States?

Mr. SULLIVAN. Twenty-eight, I believe.

Mr. HAUGEN. And you have some members in all parts of the States, country grocers as well as city grocers?

Mr. SULLIVAN. Yes.

Mr. HAUGEN. You have been instructed to come here?

Mr. SULLIVAN. I am instructed by a motion passed in Portland last June to appear here to-day; resolutions indorsing the measures along these lines.

Mr. HAUGEN. The grocers and dealers were represented there by delegates?

Mr. SULLIVAN. Yes.

Mr. HAUGEN. To what extent?

Mr. SULLIVAN. Do you mean the number in the convention?

Mr. HAUGEN. Yes.

Mr. SULLIVAN. We expect to have 500 at Springfield, Ill. I believe that we had 300 at Portland, which is away across the country.

Mr. HAUGEN. You had 300 delegates there?

Mr. SULLIVAN. Yes.

The CHAIRMAN. Have you included a copy of those resolutions in your papers?

Mr. SULLIVAN. No, sir; I have not. I have just left here the indorsement of the butter and egg board of Chicago of a law along those lines.

The CHAIRMAN. It seems to me it would be desirable for you to file a copy of those resolutions if you can do so.

Mr. SULLIVAN. Very well.

Mr. CURRIER. This association hold their national convention next week, Mr. Chairman, and I just wanted to ask Mr. Sullivan if he concurs fully in what Mr. Green has said.

The CHAIRMAN. Yes; he has already said so.

Mr. SULLIVAN. We will meet a week from Monday in convention at Springfield, Ill.

The CHAIRMAN. If that is all, the committee will stand adjourned.

(At 1.30 o'clock p. m. the committee adjourned. The papers submitted by Mr. Sullivan are as follows:)

THE PETER FOX SONS COMPANY,
COMMISSION MERCHANTS,
Chicago, April 27, 1910.

T. P. SULLIVAN,
President National Retail Grocers' Association, Chicago, Ill.

DEAR SIR: Referring to your proposed change in the oleomargarine law, beg to state that we believe that it would be to the best interest of all concerned that oleomargarine should be sold only in 1, 2, and 3 pound packages, and that these packages be sealed with a government stamp, such as is now used on cigar boxes and tobacco packages.

We are also in favor of the uniform tax on both colored and uncolored oleomargarine.

Respectfully,

THE PETER FOX SONS Co.,
Per M. ELLIOTT FOX.

T. W. BRENNAN & Co., COMMISSION MERCHANTS,
167 SOUTH WATER STREET,
Chicago, Ill., April 25, 1910.

THOS. P. SULLIVAN, *City.*

DEAR SIR: In reference to the proposed legislation for the sale of butterine, we believe that, in justice to the manufacturer, dealer, and consumer of both butterine and pure butter, it should be sold only in 1 and 2 pound packages, plainly marked and sealed with a revenue stamp, bearing such tax as to compensate the Government in rigidly enforcing the law in distributing the same to the public, and that all restaurants, hotels, boarding houses, etc., serving it to their guests should display a card in conspicuous places announcing to their patrons that they are not serving them pure butter. Under such restrictions properly enforced, with a penalty of a jail sentence for offenders, we believe that the substitution of butterine for pure butter will be reduced to a minimum.

Yours, very truly,

T. W. BRENNAN & Co.

WAYNE & LOW,
COMMISSION MERCHANTS, 185 SOUTH WATER STREET,
Chicago, April 27, 1910.

DEAR SIR: Referring to your proposition to recommend to Congress that if any change is made in the present law regarding the sale of oleomargarine, that it be placed in 1, 2, or 3 pound sealed packages, each package to have attached a revenue stamp similar to what is now placed upon cigar boxes and other articles that come under the internal-revenue service regulations.

If such change is made, we see no reason why the revenue tax should not be reduced to, say, 2 cents per pound.

Respectfully,

WAYNE & LOW,
T. P. SULLIVAN, *President.*

GALLAGHER BROTHERS,
GENERAL COMMISSION MERCHANTS,
191 SOUTH WATER STREET,
Chicago, April 27, 1910.

Mr. T. P. SULLIVAN,
President National Retail Grocers' Association, Chicago, Ill.

DEAR SIR: In regard to the proposition of your organization to amend the oleomargarine law, beg leave to say that our opinion is to the effect that the interests of all concerned would be best safeguarded by the passing of a law by the National Legislature, that the substitute for butter—that is, oleomarga-

rine—be put up in 1, 2, or 3 pound packages, sealed with a government stamp, and that it be sold in no other way.

A national law that would compel all hotels, restaurants, etc., to display cards on their dining-room walls setting forth that they served oleomargarine would be a benefit to the public also.

We are also in favor of the uniform tax on both colored and uncolored oleomargarine.

Respectfully submitted.

GALLAGHER BROS.

**STATEMENT SUBMITTED BY MR. J. J. CULBERTSON, CHAIRMAN
LEGISLATIVE COMMITTEE, INTERSTATE COTTON-SEED CRUSHERS' ASSOCIATION.**

In considering this question it seems to be necessary to go into the history of the article, oleomargarine, to some extent, from the time it was first manufactured in this country, and to follow its effect on its chief competitive article, butter, and if possible to determine what causes led to its present position as an article that should be accepted as one of legitimate manufacture, and to determine if possible why such should be surrounded with the restrictive laws and the tax that it is subjected to at the present time and if there should be any good and sufficient reason to those of unbiased and unprejudiced minds why it should be burdened with this tax.

In the economy of nature we are provided, through the bounty of providence, with those necessities of life that come to us for our subsistence and welfare, which are supplied to us from those sources that we find at every hand. Through the ingenuity of the human mind we are constantly at work endeavoring to develop, economize, and control those sources and supplies so bountifully furnished. We have at times, through temporary necessity or otherwise, been able to add to these by displacement, duplication, or substitution processes, by which mankind at large has been benefited. It is commonly said that "necessity is the mother of invention." This is particularly exemplified in the various instances in which articles and products that are to-day considered as necessities have been brought into the world by ingenious brains that have sought to supply such. The luxury of yesterday is the necessity of to-day. The time was when our forefathers were satisfied with the ordinary refrigeration which nature gave them in the production of ice, which they stored and used after the manner of to-day. The possibility of manufacturing ice by artificial refrigeration never occurred to them at that period. To-day the manufacture of ice has extended to all parts of the world, especially in hot climates, and the article that comparatively a few years ago was one that might have been considered a luxury is now a necessity. It supplies the place of that produced by nature and, I am old, even beats nature so far as the cost of distribution to man is concerned.

The article, paper, that years ago was manufactured wholly from rags, is now being produced from the trees of the forest, and from the grain fields, and even from the refuse of manufactories, that in times past was wasted. Should it be said that the article thus produced is inferior and does not fill the requirements of that which was originally manufactured by the old method?

The time was when the only means of manufacturing sugar was through raising the sugar cane, and the methods employed of extracting the juice, boiling and refining it, producing the article known as sugar. Napoleon, during his campaign and conquest of the world, was confronted with the necessity of supplying his soldiers, owing to its scarcity on account of his continental embargo, something that would take its place, and the premium that was offered for the discovery of such brought forth from the same quality of ingenuity, induced by necessity, that article known as beet sugar. The saccharine matter that was produced through this medium has grown to such proportions as to take the place, in a large measure, of the article originally known as sugar. Was this substance, or new process of making sugar, regarded as calamitous to the growth of sugar cane, or to the producers and consumers of sugar by the older method? No. Our Government offered and paid bounties for such in order to encourage the beet-sugar industry in this country, and to foster and give to us an industry that would be of material, widespread benefit, and as an aid to reducing the large quantities of beet sugar imported from Germany and other foreign countries.

The drug, salicylic acid, first produced from the oil of wintergreen, and a very expensive article, is now manufactured chemically from phenol and sodium and has all the chemical effects and medical properties of that made from the oil of wintergreen, which sold at 32 cents per ounce, while the substitute sells at 7 cents.

The evolution of the article indigo, first produced in India, where its manufacture became one of the leading industries and which has become one of the most important drugs for dyeing purposes, has been almost entirely displaced by a substitute, shall I say? If we can so term the chemically-prepared substance which now takes its place, and which has all the constituents of the original drug produced from an oriental plant. It is another instance of the persistence with which chemistry is invading the domain of nature, and, to some extent, taking its place. The great chemists of Germany have succeeded in extracting from coal tar a dye which I presume might be called "imitation indigo," although chemically it is precisely the same substance as that produced by nature. Man has combined in a test tube the elements of oxygen, hydrogen, nitrogen, and carbon as nature combined these same elements in the plant, and the article thus produced was indigo. Many other dyes are being made chemically with coal tar as a basis, and thereby leaving the vast areas of land once occupied by the plants used in making them free to be utilized by growing the more important plants for human food. From an article recently published is an apt illustration as to how men are constantly working in the effort to conserve the forces of nature: "We see chemistry making sugar out of beets, out of corn, and even out of coal tar, and thereby supplementing the sugar cane. We see it making alcohol out of potatoes and wood waste, and thereby supplementing the coal mine and the oil well as sources of fuel. We see it tanning leather with a compound of chromium, and thereby supplementing the vegetable tanning materials which the human race has used from time immemorial. We begin to doubt whether there is anything which it can not either actually duplicate in the laboratory or else imitate by means of a material drawn from some unexpected quarter."

The same ingenious brain force is incessantly at work through the means at its command, and especially in laboratory work, constantly endeavoring to supply such of the necessities of life as is in their power, and this tireless labor on their part is to the end of producing compounds and substitutes which can be had by the masses of humanity at a lesser cost than the original articles. The common objective of all scientists and inventors is economy of production, and it is a generally accepted truth that the economies of this day over those of yesterday are the profits of business. Commercialism's chief thought is economical production, and man is indefatigable in the pursuance of this object. If these efforts on the part of those who are devoting their lives to the work should not be supported and encouraged, the incentive would be removed and the march of progress stayed. It can therefore be summed up that all honor and praise are due to those that have been able "to make grow two blades of grass where but one grew before," and that all honor and praise are due to him whose ingenuity produces any substitute for the masses of poor humanity which will more economically supply their necessities.

Oleomargarine, if we are to believe the history connected with it, seems to have originated in the fertile brain of the same ingenious man of France, impelled by the necessities of the occasion and through the efforts of his ruling emperor, Napoleon III, who offered, I believe, a premium to anyone that would produce a substitute for butter. It is said that this French chemist, Mege, succeeded in producing the article in such an appetizing form, by the blending of animal fats and vegetable oils and by colorization, that it became a formidable competitor to butter, and that the manufacturers of the latter article were compelled to adopt the same means of coloring their product in order to make it a good competitor of its substitute. Be this as it may, the substitute fulfilled the object for which it was made and supplied the want that was felt at that period and has continued to supply it in those European countries, to the benefit of their poorer classes. With the introduction of the article into America and its consequent competition with butter, the natural antagonism ensued that comes when a business which had long enjoyed an uncontested field of operation suddenly finds itself confronted with a formidable competitor. The manufacturers of butter had, originally, good grounds for complaint, in that the new article was manufactured and sold as butter, and in which contention they had the support of every fair-minded citizen; but like many industries, envious and greedy, the original conception of correcting the evil and

arresting the sale of the substitute as butter itself led the dairy industry beyond these confines into the determined effort to suppress entirely the manufacture of oleomargarine.

How formidable competition became at that time I am unable to say, but that the quantity of oleomargarine sold as butter was very large no one will deny. The original offense of the article in masquerading under any name other than its own gave the opposite forces considerable sympathy, which they molded into a sentiment against the manufacture of the article, and they sought at the outset to show the people of this country and the authorities that it was unfit for human consumption and that the ingredients entering into it were not healthful. The purpose of these false accusations was manifest, and they led to sufficient official investigation to indicate that such were without foundation. The report of the committee on the original Grout bill treats the article as imitation butter, and that any similar article colored in semblance of butter was, per se, an imitation, and that the purpose of the Grout bill was to encourage the sale of the so-called genuine article and to discourage the sale of the so-called imitation, and to protect the honest producer, etc. That the butter producers were alarmed at the increased sale of the substitute is shown by the report of the committee at that time. It states:

"That we are of the opinion that the people have ample cause for alarm at the tremendous illegal growth of the oleomargarine traffic in this country during the past few years, which now appears to have reached proportions beyond the power of the States to successfully regulate or control, and the present federal laws are apparently altogether inadequate for the emergency."

Leaving out the question of its illegality of manufacture at that time, it does look as if the people had taken very kindly to an article that was branded by the butter people as one of deception and fraud, and if its consumption grew to such proportions there must have been some merit in the article itself to have brought about such a situation. I am not now entering into any justification of its manufacture and sale at that time as butter, but merely as an argument to show what the people would do if they could use it unrestricted. The argument might be made that had the consumers known that it was oleomargarine they would not have used it. This knowledge might have had a sentimental effect, which I will grant, but we can not get away from the fact that by its being sold and consumed as butter that it was, to all practical intents and purposes, butter.

In the minority report of the Committee on Agriculture on the Grout bill the following declaration was made: "We first wish to bring the attention of the House to proof positive that oleomargarine is a wholesome and nutritious article of food, and is therefore entitled to a legitimate place in the commerce of our country. In substantiation of this statement there has been submitted to this committee sufficient evidence to settle the question as to whether it is a wholesome and nutritious article for human diet." I will not burden your body with the unquestionable authorities bearing on this, inasmuch as there has been submitted to this committee sufficient evidence to indicate that oleomargarine is a wholesome, nutritious article for human diet.

Since the operation of the present law the object that the opposing elements sought to attain has in a partial way been accomplished; that is, that the quantity of oleomargarine manufactured has steadily declined until more recently, owing to the high cost of butter—40 cents per pound and over—the manufacture and consumption of it has extended. But under normal conditions and prices of food products it has declined, as the figures submitted heretofore show.

It will be seen from the figures already shown you that the tax imposed has to a large degree restricted the manufacture and consequent sale of the article. The revenues derived therefrom have been inadequate when the costs of enforcing the law and punishing the violators thereof have been taken into consideration, and there has been a recommendation made on the part of Secretary MacVeagh and Commissioner of Internal Revenue, Mr. Cabell, to the end that a reduction of this tax would be welcomed by them as a means of perhaps increasing the revenue and decreasing the expenditures in the collection of such. But inasmuch as the tax was never instituted as a revenue measure, we have yet to see a good reason why this article should be taxed at all. A tax of 10 cents per pound is penalized where oleomargarine is colored, the bill states, "in imitation of butter." If butter has the right to be colored, and 75 per cent of that manufactured is colored, why, then, should the article butter have to itself the right of colorization to the exclusion of any other article of commerce? Why

is butter colored? To make it more pleasing to the eye and seemingly more palatable. By what right should there be any limitations upon colored oleomargarine, if the article is one of legitimate manufacture and recognized as so being? If we are to believe the origin and method of manufacture of oleomargarine, of which colorization was a part, then the color was as much a component constituency as any other of its ingredients. If oleomargarine uncolored, or in any stage of coloring is entitled to the name of oleomargarine, then oleomargarine colored is as much oleomargarine as the uncolored. The discrimination is not made with butter. Butter seems to be butter whether it is pale as a ghost or as ruddy in color as oleomargarine itself. Where this distinction comes in in favor of butter I am unable to say, and why permit should be given to one and that same permit taxed in the case of the other is one of the inconsistencies of this law that I am not able to solve.

The claim is made that oleomargarine is imitation butter. The article at one time might have been known as imitation butter, but that day is past; and it is manufactured and sold as oleomargarine, and has its commercial existence under that name, and to it should be accorded the right of existence as such, or it should be prohibited absolutely from being manufactured. It is well to note at this juncture that the present pure-food laws, both of the Federal Government and the different States, prevent any article of food to be manufactured that is deleterious, so that the article itself is at present surrounded with sufficient and good laws regarding the materials from which it is manufactured, and the process of such as to insure its freedom from anything that is unwholesome or uncleanly.

If we have to some degree shown that the article is one of legitimate manufacture and suitable as a substitute for butter, and if we take the statement of the Secretary of the Treasury and the Commissioner of Internal Revenue to the effect that the present tax is to a great extent inoperative or does not produce sufficient revenue for the expense involved in the collection of same, then why should any tax whatsoever be exacted unless it is done for the purpose of aiding the butter business at the expense of the oleomargarine business? The dairy interests have been able, by virtue of their organization and strength and influence, to secure, through the medium of misplaced legislation, the tax on the article. It has never been shown why it has thus been subjected to this onerous tax, and the arguments that have been made emanate from the dairy interests or those that are in sympathy with them. The result has been that we have had enacted a species of class legislation that is at once unique and dangerous. The enlisting of the aid of the Federal Government to increase the cost of one article so that it can not be brought into competition with another for which it is intended as an alternative, and to place its control within the province of its taxing power, is calling such supreme aid for the purpose of suppression as has not been equalled since the days of reconstruction.

I will say right here that the burden of this tax was equalled only when the Federal Government taxed that imperial product of the South—cotton—some years after the civil war. There was the same force at work then as now—might, not right. The Supreme Court of the United States in a leading case decided: "To lay with one hand the power of the Government on the property of the citizen and with the other to bestow it upon favored individuals to aid private enterprises and to build up private fortunes is none the less robbery because it is done under the forms of law and is called taxation." It should be stated that those that are most affected by this tax are the consumers, and the consumers, in this case, naturally embrace the poorer classes. If it has been the desire and determination of this administration to relieve from taxation as far as possible the necessities of life, why is this tax imposed and that on an article that should enter into the daily food consumption of the poorer classes? If the article is entitled to any existence at all it should have the right to be manufactured for what it is, should be sold for what it is, and every American citizen should have the right to purchase it for what it is, and not be compelled to pay the exorbitant price for an article, butter, that in no wise is any better for his purposes than the article that should be within his reach, oleomargarine, unless he so chooses. It has been claimed that oleomargarine is sold as butter, and that it has to a greater or less degree, in greater or less quantities, been sold as such since the beginning of its manufacture. If this be granted, and the article is surrounded by the restrictions with which the butter people have sought to surround it, then why should not new laws be enacted regarding such restrictions that will be practical and effective?

The bills proposed by Congressmen Burleson, Lever, and Senator Simmons seem to us to surround such with sufficient restrictions, and have fixed penalties sufficiently severe for the infraction of such proposed law that would, to our minds, become sufficiently effective to prevent its being sold as butter. If the article, which is recognized as a legitimate product in Europe, can be sold there in competition with butter, it seems strange that we are not able to enact similar laws to prevent fraud. England, with her colonies producing a vast amount of butter, permits the sale of margarin for what it is. In Holland and Belgium, and in fact all the European countries where the question of cost of living seems to be paramount, the article is manufactured and sold for what it is, thereby giving to the poorer classes a substitute for butter that tends to reduce the cost of living. Our own Government seems to appreciate and realize that the mass of the people in this country are suffering from the high cost of the necessities of life. Food products have climbed in price so that the question has become acute to that degree that both Houses of Congress have instituted committees to investigate the reasons for such. Complaint is made that salaries and wages have not increased commensurate with the advance of commodities and necessities.

It is not necessary to go into a ramification of the cost of the production of this article, its manufacture, what its profit to the wholesale dealer, what the retailer makes out of it, and its final cost to the consumer, all of which have a vital bearing on the subject, but in the particular case of this one necessity of life it is within the province of our Government by repealing the present law on oleomargarine to afford relief to the consuming masses in providing a means by which they can secure an article of daily necessity at much less cost, and it seems to me that it is their duty on a simple proposition of this sort to give that relief that is necessary. If such relief were given, it would increase the factories, and hence the employees and also the sellers of oleomargarine, and the consequent competition would probably materially reduce the cost of manufacture and the consequent cost to the consumer. It places in the hands of all classes a substitute for butter that is at once wholesome and nutritious. The essence of the present legislation seems to lie in the desire of the dairy interests, so called, to prevent fraud. After all, the claim of the dairy people that the manufacture of oleomargarine, unrestricted, would be ruinous to their industry, has little or no foundation in fact. When we come to consider the comparatively small amount of oleomargarine manufactured as compared to butter, and if we take the recent prices that have been prevailing for butter, there is every argument in favor of the manufacture of its substitute, which can be produced so that it can be placed in the hands of its consumers at a little over half the price of butter.

It has been a sentiment that this measure inflicts an injury to the South and West in that by the reduction of the manufacture of oleomargarine, one of the component parts, cotton-seed oil, is restricted in its free use, which is so. That the great West is affected in that the better class of the fat from the cattle that might be used for edible purposes goes to Europe for edible compounds, which is true; but to my mind the parts of the country that are most largely affected are the industrial centers located in the North, East, and West, where the working classes are being deprived of a necessity or, rather, are being compelled to pay a tax on one of the necessities of life; so that we should and will hear more protest from those centers than from ourselves, and were it generally known by the consuming classes that the mass of the people were being taxed for the benefit of the dairy interests I am sure we should have sufficient substantial protests and sentiment so that no fair-minded legislator could help but take note of it. I do not believe that the average Senator or Representative thoroughly understands this question. I do not think that he has given the subject sufficient attention or study to comprehend it and the great principle which is involved, and I am sure that if he should, in the course of his arduous legislative duties, give to this matter the investigation and consideration that it demands that we should have but few dissenting votes against the repeal of the present obnoxious law. To my mind, it is a case of necessity of enlightenment, so that our fair-minded legislators could see the injustice that is being done by their acts, either active or passive, and if the subject could have their personal attention and study, what has long been a vested wrong, which some seem to regard now as a vested right, would be speedily corrected.

On behalf of the farmers who raise cotton, who are also consumers, we protest against the present law, in that we are interested in raising a product from the soil that produces oil that enters into the manufacture of oleomargarine.

The tax on the article restricts its sale and manufacture, and consequently affects our business. The cotton-seed oil, of the better quality, is largely used in the manufacture of oleomargarine. The aim and desire of most manufacturers is the fostering and extension of their home trade. In this we have been successful in so far as our products are generally concerned, but in the increase of trade in oil for the manufacture of oleomargarine there has been a disappointing reduction.

The present tax directly affects him in that it restricts the use of cotton oil, and while we are not here to ask for "protection," as the term is commonly used, we do ask that our people be placed on the same plane as their brothers of the North and East and West, and that they be given those rights that are granted to them under our Constitution.

This tax also affects our live-stock industry of the South and West, in that certain parts of the fat that are used in its manufacture are enhanced in value as an oleomargarine ingredient. If there is a definite penalty for the selling of oleomargarine as butter, such as the Grout bill imposes, the imposition of a tax seems to me to put a premium on violations of such law. To our minds, if the penalty for its illegal sale is insufficient, then it is the duty of Congress to pass such laws as will correct it. And to you therefore we appeal for an honest effort for the repeal of this most unjust tax, which never was meant for anything else but to repress the manufacture of an article that has been shown to be healthful, nutritious, and of legitimate manufacture. In the face of the recent exposures of the methods of the dairy trust, what legislator is there in Washington to-day that can do ought than to lend his might to correct this monstrous wrong?

STATEMENT SUBMITTED BY T. S. YOUNG, REPRESENTING INTER-STATE COTTON SEED CRUSHERS' ASSOCIATION.

As a member of the Interstate Cotton Seed Crushers' Association (the membership of which comprises most of the crude cotton-seed oil manufacturers of this country, representing an investment of over \$100,000,000 in our 800 plants), I desire to call your attention to the injustice being done this great southern industry by the unjust tax on oleomargarine imposed by the Grout law.

The Grout law largely closes to us, in this country, the market we would have from the manufacturers of oleomargarine, if this pure and wholesome article of food was not unfairly discriminated against by our laws. The business under the operations of the present law is very much restricted, and the quantity of cotton-seed oil used in oleomargarine probably does not exceed 50,000 barrels per year, while the butterine makers of Holland alone use more than double this quantity of American cotton-seed oil annually.

We believe that with fair laws, the consumption of oil in oleomargarine in the United States, would be at least 200,000 to 250,000 barrels yearly. We do not believe the increased sale of oleomargarine would be followed by a corresponding decrease in the sale of butter, because the price of butter has been forced so high, by demand exceeding production, that a great many people can not afford to buy it at all. This class of people would welcome a pure, wholesome substitute, particularly now, when the cost of living is such a serious problem to all classes except the wealthy.

Large quantities of milk are used in the manufacture of oleomargarine, and this would, in our opinion, increase instead of diminish the demand for this product of the farm, thereby benefitting the dairymen. The large creamery interests have always maintained that the unrestricted production of oleomargarine would seriously affect their business in butter; but we doubt even this, because the people who now buy butter would doubtless continue to do so regardless of the price.

We desire that the Government shall control, through the pure-food department, not only the manufacture of oleomargarine, but also that of butter. Because we feel that the public needs just as much protection from unscrupulous manufacturers of these two essential articles of food as any others, any law, which imposes restrictions on the manufacture of oleomargarine that do not also apply to butter would, in our opinion, be unjust.

The Department of Agriculture furnishes us with some interesting data relating to the price paid to the farmer for milk before and after the passage of the Grout law, which you will see shows that while the price of butter was 28.99 cents in Elgin in 1909, or about 33 per cent higher than in 1901, when it

was 21.88, the price of milk in Illinois in 1900 was \$1.15 per 100 pounds, and in 1909 \$1.85, or 17.4 per cent higher, indicating that the butter manufacturer and not the farmer has secured the benefits of the tax on oleomargarine, and the dairy farmer has been simply used by the creamery interests as a "cat's paw" in securing legislation.

In 1901, before the passage of the Grout bill, about 130,000,000 pounds of oleomargarine were made. This quantity would require, I am informed, in its manufacture about 28,000,000 quarts of milk, or the yearly output of about 10,000 cows.

Two years following the passage of this act the production fell to 46,000,000 pounds, a decrease in milk required of 16,800,000 quarts, or the yearly output of about 7,000 cows.

I am informed that skimmed milk is largely used, so that the dairy farmer has lost a large market for an otherwise almost unmarketable product to that extent, and the consumer has been compelled to pay an exorbitant price for butter, the arbitrary making of the price of which the Senate has been investigating; and I suggest that if the price of butter can be fixed arbitrarily high, the same power can fix the price paid the farmer for milk arbitrarily low.

The dairy farmers use large quantities of cotton-seed meal and hulls, and are therefore important to our business, and we would do nothing to injure their business, but we oppose undue favoritism to the creamery interests.

It is natural to suppose that if the tax of 10 cents per pound had not been added as an insurmountable burden the production of oleomargarine since 1901 would have increased somewhat in proportion to the increased population of the country; and, although it has increased since 1903 from 46,000,000 to 86,000,000 pounds in 1909, it is still over 30 per cent less than in 1901.

It is true that the present law permits the manufacture of uncolored oleomargarine at a tax of only one-fourth cent per pound; but uncolored oleomargarine, as well as uncolored butter, is almost unsalable to the consumer, and artificially colored butter should be taxed if artificially colored oleomargarine is. The increased business in the past few years is probably due to the so-called "moonshine" trade, which buys the uncolored product from manufacturers, colors it, and sells it as butter to the consumer, thereby pocketing all the saving the consumer would make if the oleomargarine was colored by the manufacturer and sold as such through regular trade channels. The business can be easily regulated by compelling the manufacturer to market it only in 1-pound, 2-pound, 3-pound, 5-pound, and 10-pound prints or blocks, with the name "oleomargarine" and the manufacturer's name stamped in the material itself. Butter is worth at present on the New York market from 30 to 40 cents per pound, retail. A high-grade oleomargarine could be sold at a reasonable profit to manufacturer and dealer at from 20 to 22 cents per pound to the consumer, if there was no tax to pay; and we feel that the large mass of consumers, who are unable to pay the high prices demanded for butter, are entitled to some consideration from Congress as well as the creamery interests of the country.

There is no longer any doubt about the purity and wholesomeness of oleomargarine, because it is now manufactured entirely under government supervision, and tests repeatedly made by scientific men, including government officials, prove it to be free from all substances injurious to health and perfectly suitable for human food. It is highly thought of in all the most important countries of Europe, where the consumption is very large, even in those countries such as Denmark and England, where the choicest grades of pure butter are made. Statistics which I have recently secured show the production in those countries for 1909 as follows:

	Pounds.
Denmark -----	70, 400, 000
England -----	104, 160, 000
Holland -----	117, 600, 000
Germany -----	280, 500, 000

You will see from this how this article is liked among some of the most intelligent people in the world, where butter is certainly as well and favorably known as it is in the United States. In fact, Danish butter has the highest reputation of any made in Europe, and dairy farming is the principal occupation of the people. Nevertheless, the inhabitants of that country consumed in 1909 nearly as much oleomargarine as the 85,000,000 inhabitants of the United States.

If we consumed oleomargarine in the same proportion per capita as Denmark does—i. e., 82 pounds—the consumption in this country would be 2,720,000,000 pounds, which would require over 1,000,000 barrels of cotton-seed oil, an amount equal to the entire exports in 1909. So much for the injurious effects on our industry of the Grout law.

There is no justice in imposing any tax whatever on any pure article of food, the levying of which will tend to increase the already burdensome cost of living in this country, and I therefore advocate the removal of all taxes on oleomargarine, and a strict government supervision of the manufacture and sale of same.

I append letters from the Department of Agriculture and from Messrs. Pay & Co., of Copenhagen, Denmark, giving figures quoted above about milk and butter, also "No. 14—Hearings before the Select Committee to Investigate Wages and Prices of Commodities." (See marked paragraphs, pp. 579-583, inclusive, pp. 587-589, p. 605.)

T. S. YOUNG.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
Washington, D. C., April 5, 1910.

Mr. T. S. YOUNG,
The Southern Cotton Oil Co.,
24 Broad street, New York, N. Y.

DEAR SIR: Your favor of the 1st instant to the Secretary of Agriculture has been handed to the writer for reply. We herewith take pleasure in sending you the information we have, although we are sorry we do not have the production for the year 1909, as it is impossible to ascertain the production only as taken by the census, which gives the amount of butter made in 1900 as 1,492,699,143 pounds. This includes both creamery and dairy butter. The authorities estimate that 50,000,000 pounds more escaped the census taker. The average price of butter in New York for 1900 was 22.22, and Elgin, 21.8 cents. The quotations in New York for the year 1909 were:

New York, 29.98, and Elgin 28.99.

In reference to the price of milk in the centers where butter is produced in large quantities, would say that milk is purchased on the butter-fat basis in the butter-producing sections, therefore, we will give you the price of butter fat for a few of the Central Western States:

	Cents.
Minnesota creameries paid the farmers on an average.....	29.78
Iowa creameries paid the farmers on an average.....	30.45
Michigan creameries paid the farmers on an average.....	30.87
Wisconsin creameries paid the farmers on an average.....	30.70
Illinois creameries paid the farmers on an average.....	29.44

The price for milk in Illinois at the condensaries was \$1.15½ for 1900, and 1909 \$1.35 per hundred pounds. This, of course, does not permit of the return of the skim milk to the farmers.

Yours, respectfully,

B. D. WHITE,
In Charge of Dairy Manufacturing Investigations.

COPENHAGEN, April 15, 1910.

THE SOUTHERN COTTON OIL COMPANY, *Paris.*

DEAR SIR: Your favor of the 13th received with thanks and contents duly noted. We do not wire you, as this letter will reach you before the 18th instant.

There have not been published any statistics as yet as to the margarine output in Denmark for the period 1909-10, the statistics stretching over the period from April to April, and nobody can have any idea at this date how great a quantity has been consumed for the period 1909-10, as the margarine inspectors have not yet summed up the churners' output.

For the period 1908-9 the output in this country—which has got 2,200,000 inhabitants—amounted to 29,029,339 kilos margarine. To this comes that we have imported from Sweden, Norway, and Holland, 1,800,000 kilos, while no margarine has been exported.

The 2,200,000 inhabitants thus consume about 32,000,000 kilos margarine a year, which is the greatest consumption per head in the world. It might, however, be that the consumption per head in Norway is just as great.

For the period 1909-10 the statistics will not be published till July this year, but as far as we have been able to find out when we have talked with the margarine churners the outturn has not been less this year than last.

There is, however, now a great change in the manufacturing of margarine, as the vegetarian margarine is now acting a great part, and we guess that at least 80 per cent of the outturn consists of this kind of margarine, which is mainly made of cocoa fat, sesame, and arachide oil. We guess that the vegetarian margarine will in the course of the year amount to at least 50 per cent of the outturn, which will be a great disadvantage to the consumption of cotton oil, oleo, and beef premier jus.

Yours, very truly,

PAY & Co.

EXTRACTS FROM HEARING BEFORE THE SELECT COMMITTEE TO INVESTIGATE WAGES AND PRICES OF COMMODITIES OF THE UNITED STATES SENATE OF APRIL 4, 1910.

(Page 579:)

Senator SMOOT. There is a shortage in butter now, isn't there?

Mr. NEWMAN. Just now there is.

Senator SMOOT. Is that the reason that the price was a little higher this year than years back?

Mr. NEWMAN. Yes; and there seemed to be more demand. The mechanics and the laborers were eating better goods these last couple of years, and you must remember the population is increasing faster than the production.

Senator SMOOT. I notice the thirteenth week, being March 28, the price this year is higher than the same week in any year since 1890.

(Page 580:)

Senator SMOOT. You are getting the new membership on the basis that you are securing for these parties every year the highest possible price for their butter?

Mr. NEWMAN. Yes, sir; they know that.

Senator SMOOT. That is the object of the association?

Mr. NEWMAN. Yes, sir.

The CHAIRMAN. What is your total membership?

Mr. NEWMAN. It is 246, I think; I couldn't tell without counting it.

The CHAIRMAN. Two hundred and forty-six?

Mr. NEWMAN. Yes, sir.

(Pages 580 and 581:)

Senator CRAWFORD. How many creameries have you in your association?

Mr. NEWMAN. I haven't got a memory like I used to have when I was a younger man, but I think it is 356 or 456.

Senator CRAWFORD. Then you have got more creameries in than you have members?

Mr. NEWMAN. Sure.

(Pages 581 and 582:)

The CHAIRMAN. Mr. Newman, I find from a somewhat hasty examination of your list of members here that there are—of your 246, there are 91 from Chicago. Are they farmers?

Mr. NEWMAN. No, sir; they own farms, a great many of them.

The CHAIRMAN. They are dealers, aren't they?

Mr. NEWMAN. They are dealers in butter, commission men.

The CHAIRMAN. That is what I wanted to get at.

Mr. NEWMAN. Yes, sir. A man that is in the butter business, Senator, he comes and wants to join, and he is buying some creamery butter; we don't make any objection if he is a man of good character and good standing, and we can sell him some butter some time or other, we would like to have him join. We don't care where he is from.

Senator McCUMBER. Your organization is really an organization of creamery men and commission men?

Mr. NEWMAN. Yes, sir.

Senator CRAWFORD. That is what it is?

Mr. NEWMAN. Yes, sir.

(Page 583:)

Senator SMOOT. Well, don't your board then follow out those rules that you have adopted?

Mr. NEWMAN. Why, certainly we do. If we find a member that is charging anybody an exorbitant price, and he turns it in at more than the Elgin Board of Trade price—

Senator SMOOT. Or less?

Mr. NEWMAN. We would call him up and ask him why he did it.

Senator SMOOT. And if it is proven against him he is expelled from the association?

Mr. NEWMAN. Yes.

(Page 587:)

Senator JOHNSTON. You don't sell it on the board of trade at all?

Mr. NEWMAN. No, sir; I don't think I have had a tub of butter on the board of trade in years.

Senator JOHNSTON. Do you sell it at the board of trade price?

Mr. NEWMAN. Yes, sir.

Senator JOHNSTON. Your sales are always made conditional upon the board of trade price?

Mr. NEWMAN. Yes, sir.

Senator JOHNSTON. That is so with all the other creameries then?

Mr. NEWMAN. Yes, sir.

Senator JOHNSTON. It is universal then?

Mr. NEWMAN. Yes, sir.

(Pages 588 and 589:)

Senator JOHNSTON. Now, what effect has oleomargarine on the price of butter?

Mr. NEWMAN. Well, it certainly has its effect, because everybody that eats oleomargarine three times a day and don't eat butter, why, it is just beating the butter producers.

Senator JOHNSTON. Do you put any coloring matter in your butter?

Mr. NEWMAN. Yes, sir.

Senator JOHNSTON. Does it add to its value?

Mr. NEWMAN. No, sir; not as I know particularly, but they demand it. We put in what the new food law says we must use. Take it in May, June, and July we don't put any coloring matter in; the fresh grass colors it enough. Washington used to demand a high-colored butter, but they have outgrown that.

Senator JOHNSTON. What would be the effect on the price of butter if the tax on oleomargarine was removed?

Mr. NEWMAN. If the tax on oleomargarine was removed I do not know as the farmer could hardly exist.

Senator JOHNSTON. You think that would put them out of business?

Mr. NEWMAN. I think it would materially help out.

Senator SMOOT. It would decrease the price of butter?

Mr. NEWMAN. Sure.

Senator JOHNSTON. Oleomargarine is not harmful, is it, to the health of the people?

Mr. NEWMAN. Well, I have seen statements where I should say it was very harmful for your stomach.

Senator JOHNSTON. You don't know of that?

Mr. NEWMAN. No, sir; I do not.

Senator JOHNSTON. I have got a copy here of the report of the Bureau of Animal Industry for 1907. You have seen that, haven't you?

Mr. NEWMAN. I think I have; yes, sir.

Senator JOHNSTON. In that report it is stated—

“That a very large percentage of the butter found in the market is below grade, selling for less than market prices for fine butter, and that the farmers in a very large area of butter-producing territory receive much less than a fair price for their butter, are both matters of record.”

Mr. NEWMAN. Let me have that again.

Senator JOHNSTON (reading):

“That a very large percentage of the butter found in the market is below grade, selling for less than market prices for fine butter, and that the farmers

in a very large area of butter-producing territory receive much less than a fair price for their product, are both matters of record."

Mr. NEWMAN. Well, of course, if a farmer or anybody else has a poor article of butter, he has got to take less than one who has got a much better.

(Page 605:)

Senator SMOOT. Can you explain why there was such a radical change in the price of butter during the month of January, this year? I ask this question because, in looking over every year from 1890 down to this year, there is hardly any change during the month of January; one or two instances there are changes, but they are slight, and this month there is a change of 6 cents.

Mr. WOOD. Yes, sir; I think I can explain it.

Senator SMOOT. You got it up too high, didn't you; you got the butter too high?

Mr. WOOD. Yes; but it was the general impression in the fall, along during the fall—it was the general impression that the butter market would be very high during the winter; everybody got that idea. They anticipated the price. They all predicted that butter was going to 50 cents a pound this winter, and they were surprised when it broke at 37 cents in New York. They all knew that the butter crop was short, and short during last summer and short still in the winter, and they anticipated very high prices, and it went up pretty rapidly, and got up pretty high, and, like any other commodity, it had to break.

Senator SMOOT. And the higher it got the greater the fall?

Mr. WOOD. Yes, sir; and if you can find any other commodity that didn't do the same thing, I would like to know what it is.

Senator JOHNSTON. You boosted it up until it got top-heavy?

Mr. WOOD. Yes.

Senator SMOOT. Mr. Chairman, why not put these prices, which are the Elgin board prices, right into the record at this time?

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Wednesday, May 11, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. The committee will please come to order. The committee has met this morning to resume the hearings on the oleomargarine bills, with the understanding, I believe, that this day shall be given to those who represent the oleomargarine interests. Mr. John F. Jelke, president of the John F. Jelke Company, who appear to be the largest manufacturers of oleomargarine in the United States, desired very much to be heard at the former meeting of the committee, but the time was occupied by other witnesses, and he has requested to be given a few minutes this morning; so, without objection, we will hear from Mr. Jelke.

Mr. BURLESON. Before Mr. Jelke proceeds I would like to ask him a few questions. Do you represent the oleomargarine manufacturers?

Mr. JELKE. Yes, sir.

Mr. BURLESON. You are authorized to speak——

Mr. JELKE. I represent the three manufacturers for whom I am speaking; I am speaking in the interest of the oleomargarine bills.

Mr. BURLESON. Which three manufacturers?

Mr. JELKE. The John F. Jelke Company, Chicago; the George P. Braun Company, of Chicago, and the Ohio Butterine Company, of Cincinnati, Ohio.

Mr. BURLESON. Are they controlled by the same interests, Mr. Jelke?

Mr. JELKE. All controlled by the same interests.

Mr. BURLESON. Then you speak for those interests?

Mr. JELKE. Yes.

Mr. BURLESON. You are not authorized to speak for the packers?

Mr. JELKE. No; I am not authorized to speak for anyone except these three companies.

Mr. BURLESON. And they are all controlled by the same interests?

Mr. JELKE. Yes, sir.

Mr. BURLESON. I desire to embody in the hearings a communication from the Cattle Raisers' Association stating their views on the pending bills.

The CHAIRMAN. Without objection the communication which Mr. Burleson presents will be made a part of the record.

FORT WORTH, TEX., *April 21, 1910.*

HON. ALBERT BURLESON,
Washington, D. C.

MY DEAR MR. BURLESON: It has been my intention to appear before the Committee on Agriculture at the time of the hearings on the oleomargarine bill and submit to that committee the resolutions which have been passed by the Cattle Raisers'

Association of Texas and by the American National Live Stock Association in favor of the reduction of the prohibitory tax on colored oleomargarine, and to offer such argument in support of our position as seemed pertinent. But the time at which the committee has held the hearings renders it impossible for me to appear, and I write you herewith what we have to say upon the subject and ask you if you can do so, to submit the same to the members of the committee.

In the first place, when the Grout bill was under consideration by the Agriculture Committee of the House, the Cattle Raisers' Association of Texas and the American National Live Stock Association protested against its enactment. It was then claimed by them and among well-informed men engaged in the cattle business that this prohibitory tax would reduce the value of cattle, particularly those grown in the grass country of the West, from 75 cents to \$1 per head for 1,000 to 1,200 pound steers. If it were just to the stock raisers to do that, I believe the cattle raisers are patriotic enough to willingly submit to it, but it is perfectly plain to my mind and to any man who had common sense that the object of passing the prohibitory tax on colored oleomargarine was wholly for the purpose of prohibiting it from becoming a competitor of butter on the market.

The Grout bill itself admitted that oleomargarine is a healthful article of food by placing a minimum tax of one-half cent per pound on the uncolored product. It is not contended that the coloring is injurious. It is only contended that it makes it look like butter. So far as the right of the question is concerned, there is just as much justice in the proposition that butter should not be colored in imitation of colored oleomargarine as that oleomargarine should not be colored in imitation of colored butter.

The reason that the uncolored oleomargarine is not salable as would be the colored article is the fact that people want the coloring to satisfy their fancy. What is the reason for coloring butter yellow? It is wholly for the purpose of making it uniform in appearance and to make it all appear like the best quality of butter. Any man raised on a farm who has milked cows, made butter where the cows run upon the meadows and clover fields and are fed clover hay and corn, knows that he gets yellow butter. Any man who has had any experience with feeding cows on cotton seed or cotton-seed products knows that he gets white butter. So far as the justice is concerned, you might just as well prohibit the man who makes butter from cows fed on cotton seed and which butter is white from coloring it to make it look like the butter that is made from cows grazing on clover fields as to prohibit coloring the oleomargarine, so far as the justice of the case is concerned.

I have no doubt that there are many who believe that a prohibitory tax should be placed upon the colored article in order to prevent fraudulent manipulation of the oleomargarine in the market as butter, but I can see no reason to doubt that Congress can provide against such fraud being perpetrated by the manufacturers of oleomargarine, and I have no doubt that it can prevent such fraud from being perpetrated by those who purchase from the manufacturers of oleomargarine. The difficulty that seems to rest in the minds of some of the Congressmen and Senators with whom I have conversed upon this subject is perhaps largely imaginary, though firmly believed, and generally when traced to its last analysis it is based upon the action of those who purchase supplies from the manufacturers of oleomargarine. It may be safely stated that those who would perpetrate the fraud of selling the oleomargarine as butter which they buy from the manufacturers of it in its colored state, would purchase the uncolored article and color it and likewise sell it as butter. I can see no escape from this argument. We feel that coming to the foundation of it, that the dairy interest has been able to exercise that degree of influence, and by argument and through a most perfect organization operating almost everywhere, to secure this unjust and prohibitory tax. On the contrary, the stock raiser believes that wherever a law is enacted which makes unsalable a legitimate part of the animal or reduces the price of it, that the men who raise that animal must in the end suffer that loss.

I wish here to quote the statement which I made before the Senate committee investigating wages and price of commodities March 30, page 488 of these hearings, to wit:

"There is also a prohibitory tax on colored oleomargarine which reduced the value of the western steer from 75 cents to \$1 per head. The injustice of it is manifest, and it was made prohibitory for the very purpose of satisfying the organizations of dairy-men in the United States. There was a false profession that it was intended thereby to prevent fraud in selling oleomargarine for butter, but it is patent to any honest and at the same time intelligent man that the law can prohibit such fraud without destroying a business, in a similar manner adopted in the various pure-food laws of the States and of the Federal Government. This prohibitory tax is without a parallel in class legislation. It is an outrage on public decency to exclude a wholesome article of food

from being made attractive in appearance for household use in precisely the same way that the dairyman colors his butter for the same purpose. The law was passed to exclude oleomargarine from the trade, and has resulted undoubtedly in eliminating competition between oleomargarine and butter, and thus has enabled the dairyman of the country to levy tribute upon the public at the expense of the cattle producer. The sentiment, which ought not to exist in American politics, finds its expression in favor of this unjust law and in favor of placing hides on the free list for the professed reason, expressed openly by some, that placing hides on the free list and retaining prohibitory taxes on oleomargarine will punish the packers. Our principles of government should forbid enactment of legislation for the purpose of inflicting an injury on legitimate business. Every time such legislation is enacted it strikes at the producer.

I believe this statement voices the sentiment of the stock raisers of the West unless they are receiving some benefit from this prohibitory tax where they happen also to be engaged in the dairy business. I may say that the records of the National Live Stock Association and the American National Live Stock Association and the Cattle Raisers' Association of Texas, and I believe all of the western cattle growers or associations of various States, show a uniform and unanimous protest against this unjust and prohibitory tax.

I am sure that the Cattle Raisers' Association of Texas feel gratified at the stand you are taking on the subject, and as the matter has been by the association committed to me to present to the committee, I will thank you to submit this letter, which is in exact line with the resolutions frequently passed, and I believe with the resolutions that have been filed with the committee having under consideration your bill on this subject.

As has been expressed by our resolutions, we are in favor of a reduction of the tax and at the same time we do not ask that it be done in such way as not to fully protect the public, the butter makers and everybody else against the perpetration of fraud by selling colored oleomargarine for butter. As before stated, we believe that it is perfectly feasible and practicable to do this, and that justice may be done in the premises.

Very respectfully,

S. H. COWAN,
*Attorney for the Cattle Raisers' Association of Texas and
American National Live Stock Association.*

Mr. S. H. COWAN, of Fort Worth, Tex. I should like to have permission, if it is agreeable to the committee, seeing you have so many witnesses here, and it is not probable I can be heard at this time, to file a brief with the committee at some time before it takes up the consideration of the bills, with respect to the terms and provisions of the law providing for proper protection against fraud and other features, with such statement of facts as I might desire to present in behalf of the Cattle Raisers' Association of Texas and the National American Live Stock Association. If I can have that permission, I will appreciate it.

The CHAIRMAN. If there are no objections, I think the committee will be very glad to have a brief from Judge Cowan on the subject of the bills.

Mr. P. J. RYAN. I would like to be heard this morning, if possible, for about five minutes, as I am expecting to be called out of the city on business in a day or two. I will not take very much time—just about five minutes.

The CHAIRMAN. Mr. Jelke, would you prefer that Mr. Ryan speak before you speak, if he takes only that time?

Mr. JELKE. Yes.

STATEMENT OF MR. P. J. RYAN, CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE CENTRAL LABOR UNION OF THE DISTRICT OF COLUMBIA.

Mr. RYAN. Mr. Chairman and gentlemen of the committee, I have a letter here which I had better read, as it will explain itself:

MAY 11, 1910.

HON. CHARLES F. SCOTT,

Chairman Agricultural Committee, House of Representatives.

SIR: I have the honor to advise you that on Monday, April 25, 1910, the Central Labor Union of the District of Columbia, a delegate body representing organized labor of this District, indorsed H. R. 21674, a bill repealing the tax on oleomargarine and other dairy products, as fixed by the act of May 9, 1902, and substituting in lieu of said tax an annual license for manufacturers, wholesalers, and retailers. It was the opinion of the delegates that the present tax on colored oleomargarine was unjust and a tax upon the industrial classes, and that any tax upon any wholesome and nutritious article of food is unjust and should be repealed, and it is therefore most earnestly desired that your committee and Congress repeal the present tax on the same.

Very respectfully,

P. J. RYAN,

*Chairman Legislative Committee,
Central Labor Union, District of Columbia.*

In taking that action, Mr. Chairman and gentlemen, we are only following our sister organizations. A number of organizations have indorsed this bill, and I will read them, so they will be put in the record. The Federal Labor Union, Bedford, Ind.; Painters, Decorators and Paperhangers Union, Cleveland, Ohio; the Spring City Council, Spring City, Pa.; Racine Trades and Labor Council, Racine, Wis.; Blue Rapids Union, Kansas; and the Akron Central Labor Union, Akron, Ohio. There are a host of other indorsements of this bill that have come from the various labor organizations.

Now, the Central Labor Union and organized labor of this country is interested at present in legislation before this Congress, and we are here this morning to see if we can not get a "peep" in somewhere. For example, we are interested in a bill to enforce the present eight-hour law in the District of Columbia on contracts, which is being violated every day. We are asking relief from the District Committee. We were here not very long ago to ask for the industrial classes the benefit of the Morrill Act in the District of Columbia. It may be said: Why should the Central Labor Union and organized labor interest itself in this matter? It is very proper that we should do it, because we believe, as stated in the letter, that it is a tax upon the poor people of the United States. And organized labor has turned aside from those things that interest it directly to interest itself in the benefit of humanity. For example, we are carrying on a crusade against tuberculosis, against sweat shops, and other things that have for their object the alleviation of the sufferings of the poorer classes in this country. We believe that this tax is unjust and a tax upon the pockets of the poorer people.

Mr. HAUGEN. What tax have you reference to?

Mr. RYAN. I have reference to the 10 per cent tax on colored oleomargarine. I am not going to attempt—

Mr. HAUGEN. You are familiar with the oleomargarine law, I suppose, and that the tax is only one-quarter of a cent. It is only when it is a counterfeit, when it is given the semblance of something else, that it is taxed at 10 cents.

Mr. RYAN. I understand this, that colored oleomargarine has been passed upon by eminent authorities in this country as a wholesome and nutritious article of diet.

Mr. HAUGEN. We are talking about the tax, now. Your objection to this bill is on account of the tax. That has nothing to do with sweat shops.

Mr. RYAN. I am talking about the present tax of 10 cents on oleomargarine. Is it not taxed at 10 per cent?

Mr. HAUGEN. The counterfeit is.

Mr. LEVER. Colored oleomargarine is.

Mr. HAUGEN. Is it your contention that the counterfeit should be sold and not taxed?

Mr. RYAN. No, sir; as I understand it, the present bill provides that this oleomargarine is to be put up in packages of 1, 2, 3, and 4 pounds.

Mr. HAUGEN. Let us confine ourselves to the present conditions. You started out by saying you were in favor of repealing this law on account of the tax. I want to know if you want a counterfeit, or what is your object in repealing the tax of 10 cents on the counterfeit? That is the question before this committee.

Mr. RYAN. I do not agree with the gentleman that oleomargarine is a counterfeit. When I say counterfeit I do not mean to say it is butter; I mean to say it is a nutritious article of food, and should not be taxed.

Mr. HAUGEN. What would you say if I should tell you that 62,000,000 pounds were sold for butter prior to the passage of this act? Is that a counterfeit?

Mr. RYAN. I would say that was a violation of the law.

Mr. HAUGEN. Is it a counterfeit of the real article?

Mr. RYAN. That was a counterfeit; yes. As I take it, this present bill is so drawn—and I have read it over—as to further protect the people of the country.

Mr. HAUGEN. You are talking about a repeal. You started out by making the point that this bill should be repealed, and your reason for it is on account of the tax.

Mr. RYAN. Yes.

Mr. HAUGEN. I want to know whether you are in favor of a counterfeit?

Mr. RYAN. I certainly am not in favor of a counterfeit of anything.

Mr. HAUGEN. Then why not tax it?

Mr. RYAN. Because I believe that oleomargarine is not what you would call an actual counterfeit, because this bill is not for this purpose—for the purpose of making a counterfeit—it is to protect the people of this country against counterfeits. This bill is so drawn that this oleomargarine will be sold in original packages and there will be a fine imposed to protect the people; as I understand it, if you break this package you will be fined for it. It was sold, as I understand, in tubs and passed off to the public as butter. Now, is not that a correct statement?

Mr. HAUGEN. I think you are absolutely honest in your contention; I am not questioning your motives in the least; I think you are looking for the facts, because I think you want to help these people that you represent, but your argument is identical with that presented here by the oleomargarine trust and the meat trust some years

ago; that is exactly what they have been contending for and that is what they are contending for now, that it shall go untaxed. In the past 62,000,000 pounds out of a product of 86,000,000 pounds were sold in violation of the law. Do you wish to return to the same conditions?

Mr. RYAN. I want to make myself clear from the outset, that I believe that everyone in this room will agree with me that it is a well-settled proposition that oleomargarine is a wholesome, nutritious article of diet. Now, I am not going to discuss that question for I think it is a settled question. Now, if it is I would like somebody to tell me why it should be taxed. I do not believe in that high tax that puts a crown on butter, so they can send it up as high as they please, and hold it there.

Mr. HAUGEN. If you will give me time I will answer that question; I will state the history of the whole legislation. We were confronted with this fact, that 62,000,000 pounds out of a product of 86,000,000 pounds were sold in violation of the state laws all over this country; the evidence before the committee went to show that the manufacturers of oleomargarine were selling this oleomargarine to dealers and creating a defense fund and charging 1 cent extra a pound and defending every retailer in the country that would violate the law, and they violated the law and they were defended successfully; and we found that these oleomargarine manufacturers and dealers were cramming down the throats of the very people you are representing here to-day 62,000,000 pounds of counterfeit and in violation of the law. The laws of the States were inadequate and it was necessary to put it under federal control, and that is what we aimed to do. We found that the dealers could buy this counterfeit at about 10 cents less a pound than they could butter, and that gave them an incentive to practice fraud; we taxed the difference between the cost of the two articles and removed the very incentive in order to protect the people you are representing here this morning.

Mr. LEVER. That was eight years ago, I would suggest to the gentlemen.

Mr. HAUGEN. And Mr. Chapman suggests that if we asked for butter we would receive oleomargarine. I bought 22 pounds myself in Chicago; I called for butter; every package of it, every pound of it, was oleomargarine, a counterfeit. I sent them to Doctor Wiley and had them analyzed, and I have the analytical data right here in my possession.

Mr. BEALL. When was this?

Mr. HAUGEN. That was when this bill was under consideration.

Mr. BEALL. Eight years ago?

Mr. RUCKER. Has the 10-cent tax prevented the fraud of selling oleomargarine for butter?

Mr. HAUGEN. It has to an extent.

Mr. LEVER. It is not the wish of the laboring people throughout this country to have this oleomargarine sold to them as butter? They wish oleomargarine sold to them as oleomargarine?

Mr. RYAN. They do.

Mr. LEVER. Pure and simple?

Mr. RYAN. Most certainly they do.

Mr. LEVER. They are not in favor of any fraud upon butter, are they?

Mr. RYAN. Certainly not.

Mr. LEVER. They certainly are not in favor of any exercise of the taxing power of this Government to prevent counterfeiting. Do you happen to know whether or not we tax counterfeit money in this country in order to prevent counterfeiting?

Mr. RYAN. Yes.

Mr. LEVER. We do tax it?

Mr. RYAN. I believe you put a penalty on it.

Mr. LEVER. Why, of course, just exactly as you laboring people would have the Government put a penalty upon the selling of oleomargarine for butter. Your contention is that you do not want a tax put upon a wholesome food product?

Mr. RYAN. Certainly not.

Mr. LEVER. And we ought to relieve the fraud by some other method than taxation?

Mr. RYAN. Counterfeit money and oleomargarine are not identical; one is a lawful thing, manufactured for useful purposes, and counterfeiting has to do with an unlawful thing; counterfeiting, you know, we would not countenance under any circumstances. As I understand it, under the old law the oleomargarine that was sold for butter was put in tubs and sold out by the pound and half-pound to the people.

Mr. HANNA. May I ask him a question? Would the laboring people of the country be willing to buy oleomargarine in its natural color, or insist upon its having a yellow color?

Mr. RYAN. I should think that would be according to a man's taste. I should certainly want it yellow.

Mr. HANNA. That is because you are used to buying butter, is it not?

Mr. RYAN. We are used to seeing things in their natural color; we want the harmony of things carried out. Now, I had a most particular friend who moved over into the country and he made his own butter; he had lived in the city here, and had yellow butter all the time, winter and summer. I understand that when butter is colored by artificial means, by vegetable matter, it is wholesome. And he moved over there and he said, "I like to see things as they should be; I am used to seeing butter yellow." Our butter in the winter time is white, and I color it and I give it color because I want to see it in that way." Now, years ago when we could keep a cow for our own use in Washington we could get our own butter in June, and we had the June butter, and I used to see it white, but now I prefer to see it yellow.

Mr. HAUGEN. You are aware of the fact that you may color oleomargarine; that they furnish you with coloring matter.

Mr. RYAN. I take it this way, that the poorer classes want to buy oleomargarine, and you do not want them to color it after they buy it. If they are going to have company to dinner you do not want to make the poorer classes color it before they spread it on their bread. However, if this coloring matter is wholesome and nutritious and is not deleterious, why should we not color it?

Mr. COCKS. I want to call the gentleman's attention to the fact, that at the New Willard Hotel and at the Shoreham all of this winter they have been serving white butter, and unsalted.

Mr. LEVER. But how many laboring people dine at the Shoreham?

Mr. COCKS. Well, it shows that the other people use white butter; that is the point.

Mr. RYAN. I want to say that I believe that a tax on any wholesome food is vicious.

Mr. BEALL. Why is it the laboring people desire oleomargarine?

Mr. RYAN. I do not say they desire it.

Mr. BEALL. Why is it they are willing to take it? Is it because they regard it as wholesome and nutritious and they can buy it for a smaller sum of money?

Mr. RYAN. Yes.

Mr. BEALL. Than they can the creamery butter?

Mr. RYAN. Well now, we are complaining of the high prices of food all over the country; now a man must go to market to suit his pocketbook; in these days he goes to market with a market basket full of money and comes back with it empty; he wants to buy something to suit his pocketbook. Now, if oleomargarine suits his pocketbook he is entitled to buy it, and if he wants it colored he is entitled to have it colored. And I do not think if I stood here until to-morrow morning I could make myself any plainer.

Mr. HAUGEN. You are aware of the fact that oleomargarine does not sell at all unless it is sold for something else?

Mr. RYAN. As I understand it, this bill wants to correct that.

Mr. BEALL. Is that statement correct?

Mr. HAUGEN. Let us take the history of it. Before the passage of this law, what was the effect, what was the demand for oleomargarine? Before the passage of this law how much of it was sold? How much of it was sold as oleomargarine? Was it not sold as butter?

Mr. RYAN. I do not know that that is true. This bill is for the purpose of correcting that, as I understand.

Mr. HAUGEN. Why do you want this stuff crammed down your throats by taking off this tax and making it possible to sell it, and sell it for what it is not?

Mr. RYAN. This bill does not attempt to do that. It says the word "oleomargarine" shall be stamped in sunken letters, and that a government stamp shall be around it.

Mr. HAUGEN. That bill has not been passed?

Mr. RYAN. This is the bill under consideration; the one I am asking for.

Mr. HAUGEN. Your contention was in favor of the repeal of the present law; you were not advocating here the passage of any bill.

Mr. RUCKER. Let me ask the gentleman a question. I understood Mr. Flanders to say he had no objection to removing the 10-cent tax, even putting it at one-quarter of a cent or even letting the tax be represented by zero, provided they put a clause in the bill prohibiting the manufacture of it in any shade of yellow, as I understood the gentleman.

Mr. FLANDERS. The gentleman has it partially correct. I do not want to be misunderstood. I said our attitude was this: That we wanted the fraud taken out of the oleomargarine; that we did not propose to dictate the method, so long as you got it out; if you will fix it so the fraud can not be practiced on the consumer, that will satisfy us. We do not want to yield, however, or give up the 10-cent tax until you give us something equally as good or better. We do not want to see the present law weakened; our desire is to make it as strong as it was originally intended to be, unless you give us something better than that.

Mr. RUCKER. Is it possible I totally misunderstood you when we were down in the room below the other day when the question was put to you and that you said:

Let me state it in this way: So far as we are concerned, let the tax be represented by zero if we get a provision in the bill that prohibits the manufacture of it in any shade of yellow; that is all we want.

Mr. FLANDERS. Almost that, but not quite. I was asked if I would consent that the tax should come off, and I said no, because you could not then pass a law that would forbid its being made in semblance of butter in any shade of yellow.

Mr. RUCKER. I understood you to say that the same tax as now levied against the white oleomargarine would be sufficient.

Mr. FLANDERS. Oh, yes; as long as it is taxed. I do not want to be understood at this stage of the argument—

Mr. RUCKER. I did not mean to interrupt you, Mr. Ryan.

Mr. FLANDERS. May I read my answer?

My view is this—that if we had a uniform, moderate tax on all oleomargarine, irrespective of shade or hue, and you had in that same measure a provision that no oleomargarine should be manufactured in the United States—that is, in imitation or semblance of butter of any shade of yellow—it would meet my approval.

Mr. HAUGEN. For the benefit of Mr. Ryan I will read these figures from the Annual Report of the Commissioner of Internal Revenue, 1909, giving the number of pounds taxed at 10 cents a pound. The number of pounds withdrawn on which the 10-cent tax was paid was 3,275,968, while 86,221,310 pounds were withdrawn on which the quarter of a cent tax was paid. Your objection, as I understand, is to the 10-cent tax, and I thought it might be interesting for you to know the amount of tax that was being paid at 10 cents.

Mr. RYAN. I think the violation of the law could be corrected by a fine and imprisonment. I believe oleomargarine is manufactured under the meat-inspection laws, and I do not see where the tax helps any. We have laws against everything, but that does not stop people from violating them. People sell unwholesome butter, rancid butter.

Mr. HAUGEN. You are aware of the fact, are you not, that the inspection under the meat-inspection law is only as to the slaughtering of the animals, the inspection of the animals?

Mr. RYAN. Yes.

Mr. HAUGEN. And it has no reference to the sale of the product at all except to provide for the inspection at the time, to see that the meat product is not diseased.

Mr. RYAN. And then we have food inspectors throughout the country; some inspect meat, butter, milk, and oil; and that could be well watched. I do not see where the tax helps out any.

Mr. LEVER. Will you let me see whether I get your position? You are in favor of the repeal of the 10-cent tax on oleomargarine because you want to put it into the hands of the laboring people of the country and the poorer classes?

Mr. RYAN. Yes.

Mr. LEVER. That is your first proposition. Is that correct?

Mr. RYAN. Yes.

Mr. LEVER. Your second proposition is that you do not believe the 10-cent tax on colored oleomargarine is effective in preventing fraud against the laboring people in the sale of oleomargarine to them?

Mr. RYAN. I certainly do not.

Mr. LEVER. Your third proposition is in favor of a law which has as its fundamental idea the original package, clearly marked as oleomargarine, and put upon the market as oleomargarine, with heavy penalties for the infraction of that law?

Mr. RYAN. Most certainly.

Mr. LEVER. Your general idea being to give to the laboring people a cheap, wholesome food product?

Mr. RYAN. Yes; and to reduce the price of butter and bring it within reach.

The CHAIRMAN. The gentleman's views have been clearly brought out, and we will pass on to another witness.

Mr. HAUGEN. The gentleman has stated his views so positively I would like him to give us some evidence of the violation of the present law under the 10-cent tax.

The CHAIRMAN. I suppose he knows nothing about it.

Mr. FLANDERS. May I ask him one question before he leaves? Mr. Ryan, do you object to this law being amended, or being put in such form that it shall protect the consuming public—those who eat in public eating houses—from being imposed upon, no matter to what extent you have to go to do it?

Mr. RYAN. I believe in protecting the public, the consumer, and I take it that this bill—which has been read over and considered by the workingmen—has for its object the prevention of frauds, and we are, as I have stated over and over again, against the taxing—the unjust taxing—of a nutritious article of food.

Mr. FLANDERS. Now, Mr. Chairman, one more question. If an amendment of the bill under consideration would do that, then would you be willing that it should be amended, or that some bill should be passed that would reach that end or protect the public in eating places?

Mr. RYAN. Of course, if I were laboring under any mistake I would want to be corrected; but I think the bill in its present form is good enough.

STATEMENT OF MR. JOHN F. JELKE, OF CHICAGO, ILL., REPRESENTING THE JOHN F. JELKE COMPANY, OF CHICAGO, ILL., THE GEORGE P. BRAUN COMPANY, OF CHICAGO, ILL., AND THE OHIO BUTTERINE COMPANY, OF CINCINNATI, OHIO.

Mr. JELKE. Mr. Chairman and gentlemen of the committee, I wish to outline my position in a few brief notes that I have here, and if you will allow me to complete them, it will save me some embarrassment, as I am not accustomed to speaking before such distinguished gentlemen.

The CHAIRMAN. The committee will allow you to complete your statement.

Mr. JELKE. I shall be pleased to answer, to the best of my ability, any questions that may be put to me.

I wish to correct a statement in the record, page 84, occasioned either by a misprint or a misunderstanding of my answer [reads]:

Mr. FLANDERS. Is it not true that John F. Jelke & Co., of the city of Chicago, are selling oleomargarine in the State of New York as white oleomargarine with no color in it?

Mr. JOHN F. JELKE. I believe that is so; a very considerable quantity.

Mr. FLANDERS. And all the oleomargarine you are selling there—you need not answer this question if it has a tendency to incriminate you—

Mr. BURLESON. That is all right.

Mr. FLANDERS. Is colored oleomargarine?

Mr. JOHN F. JELKE. All that we are selling there is colored oleomargarine.

The word "colored" should be made to read uncolored.

By the first part of the statement I am quoted as saying we were selling white oleomargarine in the State of New York, so it will be noted that a statement that we are selling colored oleomargarine in New York is a manifest inaccuracy and inconsistency.

The CHAIRMAN. I will state to the committee that it is on page 86 and not on page 84.

Mr. JELKE. The statement is in the record on page 86. Mr. Flanders states that his words also should be "uncolored oleomargarine" and not "colored oleomargarine."

When I stated to Mr. Flanders that the John F. Jelke Company were selling white oleomargarine, Mr. Flanders understood that white oleomargarine does not mean a white such as his linen collar or a piece of white writing paper; white oleomargarine means white in the trade sense, that is, without artificial color, and plainly appears white when contrasted to yellow. The natural color of the best grades of oleomargarine is of a white color, such as any person would, if asked the question "What color is this oleomargarine?" quickly answer "White." That is, their eye would tell them it was white, having no pronounced shade of yellow color; during certain periods of the year which Mr. Flanders claims as the succulent months, when the grass is green and plentiful and cows are fed in the pasture, the same effect that produces the yellow cream and butter produces a more yellow color-fat in cattle, and also in the milk and cream which the oleomargarine manufacturers use in churning. This naturally produces a slight tinge of yellow and is absolutely unavoidable. At the same time butter is naturally of such a deep yellow color at that time there is a wide difference in the appearance of the two when compared so that it is hardly possible for an intelligent person to call the light-colored yellow when they are looking at the high-colored June and October butter. One might say the oleomargarine has a light straw-color. The yellow shade of color in oleomargarine that the butter dealers object to is that deep yellow produced by selecting certain yellow fats from cattle and producing an exceptionally high-colored oleo oil and by selecting a very yellow cotton-seed oil and mixing therewith yellow June butter and possibly adding soja-bean oil, corn oil, or mustard-seed oil. This makes a product that resembles yellow butter. This product with the high prices prevailing for butter have enabled retail dealers in oleomargarine to sell a larger quantity during the past year or two than formerly, the high prices for butter forcing the consumer to accept this inferior quality yellow oleomargarine rather than take the white oleomargarine at a less price, showing the effect that color has on the average consumer.

The production of that character of goods has been done at the expense of quality, for the yellow fats thus selected and the yellow cotton-seed oil are not as sweet nor palatable as the lighter-colored fats and oils, and the June butter which is carried in cold storage from six to ten or eleven months does not have the effect of producing

a palatable product, but the consumer accepts this inferior-tasting oleomargarine because of its color rather than take a white oleomargarine, which is of superior quality, thus showing how necessary and essential color is to the proper marketing of oleomargarine to the satisfaction of the consumer.

The present law permits the housewife to color oleomargarine for her own family table. Why should the housewife, who has many duties to perform, be burdened with the necessity of going through the fussy job of coloring oleomargarine for her family?

It must be remembered that oleomargarine is intended as a substitute for butter. By the word "substitute" we do not mean a dishonest substitute, where one commodity masquerades for another, but we mean a commodity which, on account of its superior quality and cheaper cost is to take the place of butter on the table of the consumer who can not afford to pay for the higher-priced article.

It is an honest substitute for butter in the same sense that mercerized cotton is a substitute for silk. Gold and silver plating has furnished many beautiful and useful utensils to people who could not afford solid gold and silver.

In the same sense that we are importing into this country skilled workmen to teach us how to stain inferior woods so as to give people of moderate means the luxury of mahogany, and in the same sense in which the Hon. James Wilson, the Secretary of Agriculture, by and with the consent of Congress, at the expense of the Government, is issuing 300,000 cookbooks to the housewives of America, in order to teach them how to use rump, flank, chuck, and neck steaks as an honest substitute for tenderloin, sirloin, and porterhouse. It is a substitute, and an honest substitute, only in the sense that economy, both domestic and national, and the conservation of our resources teach us to make the most of what we have and let nothing go to waste. In this high sense oleomargarine is an honest substitute for butter.

You are all informed as to the healthfulness and nutritive value of oleomargarine and are satisfied that it is a commodity which should not be discriminated against by legislation except to prevent fraud, and butter manufacturers and dealers have no right to come before your committee and ask for a prohibitive tax on colored oleomargarine, when they use the identical same color for butter and not one can add a single thought to show that artificial color in butter is placed there for any other purpose than to conceal inferiority in their product and add to it in a value which it otherwise might not possess.

The question that members of your honorable committee have asked over and over again and which appears to be the point that we are all driving at is what will prevent fraud in the sale of oleomargarine from the retail dealer to the consumer and how can the product be identified after it reaches the hotel or restaurant table. There is only one way that the consumer can be advised of what he is purchasing and that is by having the name of the product indented in the goods and the same wrapped in a wrapper with the name printed thereon and this inclosed in an original stamped package which can only be opened by breaking the seal.

This is the way we are putting the goods up for New York now, according to the state law [exhibiting sample]. Of course, with this federal statute there should be a still further stamp around it, such

as is around a cigar box, and this stamp must not be broken before the package is sold. The product up to the time it reaches the consumer for his table, or restaurant, hotel, or boarding house, is a pure-food product—I think we have all come down to accept that proposition—made under the supervision of the Agricultural Department, and the eating of which will do no harm and certainly not so much harm as renovated butter, centralized butter, imitation creamery, and other grades of butter that are served as and for butter on such tables.

The Federal Government has followed the product thus far enough. It has provided for the table a pure food. The identification will thus have been carried as far as federal governmental supervision is carried on in food, and, if further regulation should be deemed necessary, it is within the police power of the State to regulate, and when they do so they should take under their regulation hash, sausage, ice cream, and a dozen other articles that are served on the tables, mixtures or compounds of no one knows what.

Now, to fully protect the public, the Federal Government should take the only other meat-food product not now regulated, butter, and place it under similar control. Protect the consumer against fraud in butter, against fraud in oleomargarine; stamp out fraud in both at the same time; and remember that the butter man is not here before you with clean hands; he is using every means to come just within the limit of 16 per cent moisture in his butter when probably 12 per cent is all there ought to be. The butter man is oversalting to gain weight, mixing inferior grades with better grades, blending his product to make it appear of greater value than it really is, artificially coloring same, and by an arbitrary tax of 10 cents per pound on a competitive commodity has been able to create the strongest trust which affects the consumer's pocket. Butter has sold during the past season at 6 to 10 cents per pound higher in New York and Washington than similar grade butter has sold in London.

One of the greatest benefits that has come to the American people has been the work of the Agricultural Department under the wise guidance of Secretary Wilson and his staff of experts, who, no one can deny, have effected practical and beneficial reforms in food products of various kinds, and particularly in packing-house and all meat-food products. Butter alone is not regulated or controlled in manufacture or sale.

The world has confidence in what the Agricultural Department is doing to protect the consumer. Why not place the other meat-food product, butter, under the supervision of the Agricultural Bureau by a specific law that will safeguard the consumer, include oleomargarine and remove all taxes from a food that is essentially the poor man's food—oleomargarine?

Your committee is the one to frame the law, the Agricultural Department is fully able to enforce the law and eliminate all fraud from the sale of each and every product under their control. Let all butter factories that do an interstate-commerce business comply with the regulations of the Department of Agriculture made under a law provided by your committee, and all butter shipped from one State to another bear an inspection stamp.

If you deem it necessary to have a dividing line on color, let the butter people have their much-prized deep-yellow, June tint.

Protect the oleomargarine industry with a tintometer numbered shade of yellow enabling them to produce a straw-colored product either by artificial coloration of a harmless character or other natural ingredient. This will draw the color line in a sufficiently distinct way, allowing, of course, the butter dealer, if he wishes, to produce white or any shade of color. Have both products, butter and oleomargarine, identified in an original package. There can be no fraud in their sale and the consumer can choose which he wants and pay the value therefor.

Through the courtesy of Doctor Wiley I was shown, by one of his experts, the lobibond tintometer, in which they have more than fifty shades of yellow. The department already has standard glass slides for beer and whisky and other food products, and we would like the straw yellow color, such as we can produce during any period of the year, and our butter friends can have the entire chromatic range from white to black. They can then maintain their highly prized June yellow, either naturally or by their customary artificial coloration, all the year round, and thus preserve that which they profess to desire to protect and at the same time establish the line of demarcation they ask for. Surely common fairness, out of the fifty or more shades of yellow, would accord one to "margarine."

In conclusion I will say the past eight years have shown that the butter dealer could not wisely advise for his own good nor for the good of the public. The tax imposed by the law of 1902 has produced practically no revenue above the cost of enforcing the same, and this law, according to the report of the honorable Commissioner of Internal Revenue, by its terms has been prolific in the production of fraud.

I would like to state the reasons why I would advocate the changing of the name from oleomargarine to "margarine," such as is on that package.

First. Because the product we call oleomargarine or butterine is known by the name margarine throughout the civilized world.

Second. All foreigners have to be told that the word oleomargarine or butterine is the same product that they know in their country as margarine.

Third. It is the natural name, and the elimination of unnecessary letters in spelling has been suggested by our most representative citizens.

Fourth. It identifies the product from butter quickly, as well as the word oleomargarine, and the adoption of a name generally known by many foreigners will quickly do away with the use of the word butterine, which is a misnomer and leads some people to believe the product has to do with butter.

Fifth. The word oleomargarine has 13 letters, is too long to print in conspicuous type on a 1-pound package so that the letters have to be made correspondingly smaller to fit the label.

Sixth. We desire to get into the world's commerce; we want margarine sold wherever the Hollander, the German, the Dane, the Swede, or the French margarine are known and sold, and in order to do this we must adopt the world name or international name or nomenclature, thereby opening up new markets for the products of our American farms. There is practically no export of butter from this country.

Mr. LEVER. You made the statement awhile ago that butter was selling in London from 6 to 8 cents lower per pound than it was selling in the United States.

Mr. JELKE. It was during the winter.

Mr. LEVER. Is that true as to Canada?

Mr. JELKE. Canada also sold butter very much cheaper than in the United States; in fact I have been told that butter was brought into the United States from Canada this past winter on the payment of a 6 cents per pound duty, and the price was sufficient to allow the importer in this country to pay the duty of 6 cents per pound on Canadian butter and sell it at a profit.

Mr. LEVER. And sell it and make a profit in competition with the butter here?

Mr. JELKE. Yes.

Mr. HAUGEN. You spoke of the 16 per cent of moisture?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. You are aware of the fact that the adulterated butter is being taxed 10 cents a pound?

Mr. JELKE. Adulterated butter?

Mr. HAUGEN. Yes.

Mr. JELKE. Is being taxed 10 cents per pound? No.

Mr. HAUGEN. Well, if it exceeds 16 per cent in moisture it is taxed 10 cents.

Mr. JELKE. I think the definition of adulterated butter is such that it is hardly a food that ought to be sold at all. I do not believe any is manufactured and sold as adulterated butter.

Mr. HAUGEN. It is exactly the same thing as manufacturing oleomargarine; you take the rotten stuff and make it into a clean, wholesome thing.

Mr. JELKE. I would not class the two as the same, Mr. Haugen.

Mr. HAUGEN. That is the evidence before the committee.

Mr. JELKE. I do not wish to dispute any other evidence.

Mr. HAUGEN. The point I was trying to make is this, that the farmer is treated exactly the same as the manufacturer is treated; whenever you undertake to put more than 16 per cent moisture into the butter it is taxed; it is subject to a tax of 10 cents a pound, and also a penalty for violating the law.

Mr. JELKE. Doctor Wiley said that the moisture in butter should probably not be more than 12 per cent, but they allow 16 per cent to cover up. Adulterated butter has been discovered on the market containing I do not know how much more than 20 per cent, but I know 25 per cent of moisture.

Mr. HAUGEN. Creameries all over the country are being held up for the additional tax on account of the additional moisture.

Mr. JELKE. The limit of 16 per cent is ample.

Mr. MCCARTHY. I believe you stated that at all seasons of the year oleomargarine would have some shade of yellow?

Mr. JELKE. My statement is on record.

Mr. MCCARTHY. Is that true, that it would have some shade of yellow, according to the tintometer?

Mr. JELKE. At all seasons of the year? I wish to make myself clear. The same things that produce white butter in the winter time will produce white oleomargarine, but not quite so chalky white as scalded milk when churned into butter.

Mr. McCARTHY. It would have some slight tint?

Mr. JELKE. No tinge to speak of.

Mr. McCARTHY. But some. Then at other seasons of the year, during the succulent months, as it has been called, it would have quite a distinct shade of yellow, would it not?

Mr. JELKE. My replies are in the statement made, Mr. McCarthy, and I would like to make them more clear if I could, but at no time in the year can oleomargarine be produced, of really high quality fats, that will compare with the yellow butter produced at that season, at that same season of the year.

Mr. McCARTHY. But it would have some shade of yellow at certain seasons of the year?

Mr. JELKE. At some periods in the year it would have a very slight tinge of yellow. I wish to make it clear that the use of high-colored oils and colored fats to produce oleomargarine of a yellow shade of color under the quarter of a cent tax has had a tendency to debase the product, and has forced upon the consumer an inferior quality of oleomargarine than which they would otherwise be entitled to.

Mr. McCARTHY. That is not the point. The point I am trying to bring out is: It would not be possible for oleomargarine manufacturers to make white oleomargarine the year around if they used only the natural ingredients?

Mr. JELKE. The year around it would not be possible to make absolutely white oleomargarine such as your collar, and it would not be possible to produce in June or July a white oleomargarine that would be absolutely blank white. I speak of "white" in the trade sense and try to qualify myself, so that Mr. Flanders, who is on the opposite side, will understand, and I believe he will concede I have tried to be fair in my statements.

Mr. McCARTHY. I do not think that is the question, Mr. Jelke.

Mr. HAUGEN. You are a manufacturer of oleomargarine?

Mr. JELKE. I am.

Mr. HAUGEN. You are familiar with the ingredients that enter into the manufacture of oleomargarine?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. In what proportion is neutral lard used now?

Mr. JELKE. That depends, according to the season of the year, Mr. Haugen. There is more used in the winter time and less in the summer time.

Mr. HAUGEN. How much is used in the winter and how much in the summer?

Mr. JELKE. That depends, particularly on the grade one wishes to make.

Mr. HAUGEN. Can you give us an estimate as to how much neutral lard would be used? Is it as high as 50 per cent?

Mr. JELKE. No, sir; not in any season of the year.

Mr. HAUGEN. Well, what is the lowest amount used?

Mr. JELKE. Well, I have known manufacturers who claimed they did not use any.

Mr. HAUGEN. Is it generally used?

Mr. JELKE. It is generally used. We use it, and it is used by every manufacturer in greater or less quantities; it is impossible to make good oleomargarine without it.

Mr. HAUGEN. What is the percentage you use? Give us an estimate. That is all I want.

Mr. JELKE. Well, I should say, as an estimate, 35 per cent.

Mr. HAUGEN. On an average?

Mr. JELKE. Yes.

Mr. HAUGEN. In what proportion is tallow from the steer used?

Mr. JELKE. Well, that might be used in about the same percentage. Of course these proportions, these formulas vary, according to the season of the year, and as to what texture of goods the manufacturer wishes to produce, and also as to the color the oleomargarine particularly is.

Mr. HAUGEN. About what is the percentage in your factory?

Mr. JELKE. Of course, it would be merely a matter of guessing. I would say it would be about equal.

Mr. HAUGEN. About 25 per cent?

Mr. JELKE. About 35 per cent.

Mr. HAUGEN. Now, as to cotton-seed oil?

Mr. JELKE. Well, of course, in some grades there is none used, and in other grades, especially the cheap grades for bakers' use, there is a very large quantity used, and it would depend upon the manufacturer's particular line, whether he supplied largely a cheap grade to the trade for bakers' use or a higher grade for retail consumption.

Mr. HAUGEN. I would like to have an estimate as to the average used. I take it that this industry is of great importance to the cotton-seed interests of this country; I understand the Cattle Raisers' Association have their representatives here and have filed briefs here to show its great necessity to the cattle growers of this country. And I would like to have an estimate as to the percentage used.

Mr. JELKE. I would guess an average of 20 per cent.

Mr. HAUGEN. Of cotton-seed oil?

Mr. JELKE. I am figuring on the basis of 100.

Mr. HAUGEN. Is any sugar used?

Mr. JELKE. We have never used any; I do not know of any used.

Mr. HAUGEN. Any glycerin?

Mr. JELKE. I never heard of it being used.

Mr. HAUGEN. Any milk?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. About what percentage?

Mr. JELKE. Well, in order to produce the 100 per cent there would have to be a very large weight of milk used, because the solids in milk are very heavy.

Mr. HAUGEN. How about butter oil?

Mr. JELKE. Butter oil is a trade name for a high grade of cotton-seed oil.

Mr. HAUGEN. Then the percentage of milk and butter is how much?

Mr. JELKE. Well, I should say in actual solid weights it would not be—

Mr. HAUGEN. Well, what percentage of the product?

Mr. JELKE. Not more than 10 per cent.

Mr. HAUGEN. Of milk?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. Do you add butter to that?

Mr. JELKE. No, that would include the butter used, except during the past winter; during the past year there have been thousands of

tubs of butter used in oleomargarine manufactories, which we ourselves are not using; I can not speak for that other class of manufacturers who use a very large quantity of butter in the production of their product; I am speaking more directly of my own.

Mr. HAUGEN. When you speak of 10 per cent of milk does that include cream?

Mr. JELKE. Milk, butter, and cream.

Mr. LEVER. Do you use any paraffin?

(No response.)

Mr. HAUGEN. Does the Government furnish the stamps that you have referred to?

Mr. JELKE. The Agricultural Department; yes, sir. The Government furnishes stamps through the Agricultural Bureau.

Mr. HAUGEN. A revenue stamp?

Mr. JELKE. No, a stamp which is furnished by their bureau stating that the product is United States inspected and passed under the act of June 30.

Mr. HAUGEN. That is all you propose to do under the proposed bill?

Mr. JELKE. No, I do not. I simply put that there now, but that is not all I propose to do.

Mr. HAUGEN. What would you propose in addition to this?

Mr. JELKE. I would propose in addition to that that a federal stamp of some character be used, an Agricultural Bureau stamp, or, if the committee deems it wise to still keep us under the internal-revenue regulations, an internal-revenue stamp that would effectually bind that package the same as a box of cigars.

Mr. HAUGEN. That is, a band right around the package?

Mr. JELKE. Yes; so it would be impossible for anyone to break that seal without becoming a violator of the law, until they intended to use the product themselves.

Mr. HAUGEN. It has been stated before this committee that there is no objection to the one-quarter cent tax on the uncolored oleomargarine.

Mr. JELKE. Well, personally I think the method of using the internal-revenue department as a police power of the Federal Government is a mistake; I only speak my own personal views. I believe the tax should be for whatever purpose the law states; if the law states it should be for the purpose of raising revenue because the Government needs it, then put the tax on as hard as we can, but I object to a tax and singling out a product which is specifically known as the poor man's food.

Mr. HAUGEN. Do you object, then, to any tax?

Mr. JELKE. I object to any tax.

Mr. HAUGEN. All taxes?

Mr. JELKE. I object to all taxes that go to burden the poor man, no matter what it is. If a tax is required on oleomargarine, I think a tax on butter should go with it, so the man who buys the fancy butter should stand a proportion of the tax as well as the laboring man who buys a few pounds of oleomargarine for his family.

Mr. HAUGEN. Then I understand you to say you are absolutely opposed to any tax, opposed to the taxing of oleomargarine in any form whatsoever?

Mr. JELKE. I am personally, Mr. Haugen, opposed to any tax on oleomargarine. If the committee deem it wise and believe it is

necessary to enforce this law, to place a band around it that it costs so much per pound, why I certainly am willing to accept whatever the committee chooses to give us, and have to accept it.

Mr. HAUGEN. Suppose the tax should be a thousandth of one cent there could not be any burden in that?

Mr. JELKE. No, sir.

Mr. HAUGEN. There would be no objection to that?

Mr. JELKE. There would be no objection to that provided the same tax under the same conditions was imposed on its competitor, butter.

Mr. HAUGEN. And place them all under the same regulations?

Mr. JELKE. Yes, sir. I believe in the end it would result to the advantage of the butter men, because it would put them to their wits' end to produce a high quality of goods which the artificial color at present conceals.

Mr. HAUGEN. The stamp has nothing to do with the quality?

Mr. JELKE. No. But when the product was placed under the supervision of the Agricultural Bureau I am sure they would find a way to improve the quality of butter.

Mr. HAUGEN. It would give a protection to the consumer, would it not, because of the fear of the penalty?

Mr. JELKE. Yes.

The CHAIRMAN. What is the range of the wholesale prices for oleomargarine at the factory?

Mr. JELKE. The range of wholesale prices of oleomargarine has probably been, in the last year, from 10 to 22 cents a pound. I would like to explain why this wide range exists. In fact, I am speaking of the goods produced under the quarter of a cent tax, and to that price should be added, where an artificial color is put into the goods, 9½ cents. The actual value of oleomargarine, the wholesale price, has probably ranged from 10 to 16 cents a pound, and then the other oleomargarine ranges from 16 to 22 cents. That would be created by the introduction of June butter. I have known one manufacturer of oleomargarine to pay for a thousand tubs of June butter this winter 33 cents a pound at one purchase—33 cents a pound—to mix with oleomargarine in order to produce the yellow shade under the quarter of a cent tax, which is permissible under the law.

The CHAIRMAN. When I used the term "the range of wholesale prices" I did not mean to refer to the variation of the prices for the same product; that might be due to different market conditions; I want to get information as to the number of different grades of oleomargarine that are manufactured and the prices of the various grades.

Mr. JELKE. Well, there are a great many different grades produced, Mr. Scott.

The CHAIRMAN. What would be a fair retail price in Washington for the best grade of oleomargarine?

Mr. JELKE. Well, at the present time a fair retail price on the very best grade of oleomargarine would be about 22 cents per pound; that would leave an ample margin for the retail dealer.

The CHAIRMAN. What would be a fair retail price for the lowest grade?

Mr. JELKE. Well, I should say about 18 cents.

The CHAIRMAN. So between the lowest and the highest there is a range of 4 to 5 cents?

Mr. JELKE. Four to 5 cents at present; during a certain season of the year, when milk and cream that is used is more costly, and when the prices of the product used in the manufacture of oleomargarine are very high. For instance, during this winter we paid the highest prices for beef fat that I ever paid in my experience.

The CHAIRMAN. Do you know whether oleomargarine is sold to any extent to creameries?

Mr. JELKE. Well, I have heard that that was so, Mr. Scott, but I question whether it is sold to creameries.

The CHAIRMAN. It has not been your experience?

Mr. JELKE. We have not sold it; we have sold largely to farmers, who take their milk to the creameries and prefer to buy the oleomargarine rather than to—

The CHAIRMAN. Rather than to buy butter for their own use?

Mr. JELKE. Yes; and thereby save the difference. For instance, at Elgin we have at least 40 retail dealers buying our goods under the quarter of a cent tax and selling the product for oleomargarine in an identified form, and I believe that in Elgin the law is observed probably as closely as in any place in the United States. Perhaps that is one reason that Mr. Newman, the dairy commissioner, lives there and sees that it does not go wrong.

Mr. COCKS. These manufacturers that use this butter that you speak of must naturally offer the product for sale as butter?

Mr. JELKE. No, no; it was all identified as oleomargarine and sold at high prices. This winter we have been under unusual conditions.

Mr. COCKS. I do not mean that the manufacturers sold it except as oleomargarine, but the retail dealers evidently sold it to the consumer as butter. Would it not be a fair proposition to think that that was done?

Mr. JELKE. Well, I would like to be fair about it, but I would not like to cast any suspicions on anybody as to something I knew nothing about.

Mr. COCKS. Did not that oleomargarine cost them more than that you are manufacturing?

Mr. JELKE. Yes, sir.

Mr. COCKS. I was wondering how they were going to get it back.

Mr. JELKE. The consumer will pay an extra price for the color. There is no question about that in my mind; the color has a value in the eyes of the consumer.

Mr. McLAUGHLIN. The nearer it resembles butter the higher the price?

Mr. JELKE. The more nearly it resembles butter in its flavor and the nearer it comes to butter naturally the more value it has. It is impossible to make any oleomargarine that will be as fine as the exclusive butter turned out by some of the special creameries and by butter makers who make a high grade of butter. I believe that a strict enforcement of a butter law would tend to improve the quality of butter all along the line, and I believe particularly the centralized butter should have very careful consideration, because we are arriving—

Mr. HOWELL. I would like to ask whether oleomargarine made from country June butter would be sold as uncolored oleomargarine?

Mr. JELKE. Yes, sir.

Mr. HOWELL. Is there not some artificial coloring in the manufacture of it, indirectly?

Mr. JELKE. No; that butter is specifically provided for by the manufacturers, and it is all under the provision that it must not contain artificial coloring, and it is carefully analyzed, so there is no chance whatever taken by the manufacturer of oleomargarine in using that product.

Mr. McLAUGHLIN. Is not that butter used solely for the purpose of producing the color?

Mr. JELKE. No, sir; not altogether.

Mr. McLAUGHLIN. It would not have been bought and used at all unless for that purpose?

Mr. JELKE. It would not have been bought, perhaps, if it were not for the law. Now, during this coming month there are contracts made for deliveries of butter made during June, without artificial coloring, and that will have a tendency to hold the price of butter up during the next two months to a rather fictitious value, simply on account of the butter market being based on Elgin board prices.

Mr. McLAUGHLIN. You have heard of cases, although you may have had no personal knowledge of them, where creameries have bought oleomargarine for the purpose of mixing with their creamery butter?

Mr. JELKE. Well, I have heard that stated; I believe that.

Mr. McLAUGHLIN. Suppose it is done, what is the fault with it?

Mr. JELKE. If a creamery or anybody else will buy butter and mix it with oleomargarine and sell it for butter, they are committing a fraud; there is no question about it.

Mr. HAUGEN. They are subject to the same penalties.

Mr. McLAUGHLIN. If the people are deceived as to what they are getting there is fraud, and there ought to be some law to prevent it?

Mr. JELKE. I think so. I think a man should be entitled to get for his money what he contracts for.

Mr. HAUGEN. Now, then, if the creameries buy it and mix it and sell it for butter, they are subject to the same tax and penalties as the manufacturer of oleomargarine?

Mr. JELKE. Yes; if discovered. I do not mean to say that has been done or not done. I believe the Commissioner of Internal Revenue is present, and he can give you all the law on that subject.

Mr. HAUGEN. That is true as to the manufacturers of oleomargarine, is it not, if they are discovered? You said the price of oleomargarine fluctuates with the price of butter?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. And that oleomargarine advances from 10 to 16 cents?

Mr. JELKE. No; I said the range of prices for the different qualities, the different formulas, and different grades produced.

Mr. HAUGEN. The prices remain practically the same?

Mr. JELKE. No; they fluctuate. The same reason that produces an increased cost or increased demand for butter has a similar effect on the substitute oleomargarine.

Mr. HAUGEN. Then, the fluctuation has not been very great; it has remained practically the same?

Mr. JELKE. Well, within a range of 2 or 3 cents a pound.

Mr. HAUGEN. This package is put up according to the regulations of the department [indicating package heretofore exhibited by Mr. Jelke]?

Mr. JELKE. Yes, sir; but that one is especially put up to comply with the New York State law.

Mr. HAUGEN. And it must be sold——

Mr. JELKE. Sold in that form.

Mr. HAUGEN. Now, this protects the dealer?

Mr. JELKE. It protects the purchaser, all the way down to the consumer.

Mr. HAUGEN. What is there to hinder the dealer from removing the outside cover and selling it in conflict with the law? I want to call your attention to the marking on this paper, "U. S. inspected and passed. Establishment 413." Not a word to indicate what it is?

Mr. JELKE. That paper is used for protection and for the purpose of keeping the product clean, and all those things are put up in this container here [indicating].

Mr. HAUGEN. Why should not the word "oleomargarine" be marked on it?

Mr. JELKE. It can be. The object is to keep as much ink away from the product as possible; that is all there is to that; we want to keep the product clean. If there is much ink on that paper and it is put into a carton and gets wet, the ink, on account of the character of the paper, the parchment paper, will run and blur, and sometimes stain the butter; that is one reason why we have avoided using a printed wrapper next to the butter.

Mr. HAUGEN. Why not abbreviate it? You have abbreviated "United States" by using "U. S." Why not abbreviate, for instance, "inspected and passed," and then abbreviate the word "oleomargarine?" It would only make four additional letters, "Oleo."

Mr. JELKE. That has been fixed by the Department of Agriculture.

Mr. HAUGEN. If you take it up with the department, don't you think they would permit you to use the word "oleo" on that?

Mr. JELKE. We found that the Agricultural Department has drawn a straight line and are trying to do as near right as they deem possible. We have no influence with them.

Mr. HAUGEN. Don't you sell a brand of oleomargarine marked "Holstein brand?"

Mr. JELKE. We do.

Mr. HAUGEN. Is there Holstein oleomargarine?

Mr. JELKE. We have used that brand for twenty years, but we are about to discontinue the use of it, owing to some adverse criticism and owing to the fact that some of the States, particularly New York, have objected to the name of a variety of dairy cattle.

Mr. HAUGEN. Do you object to giving the reasons why you have done so?

Mr. JELKE. Well, to begin with, my father came from Holstein, Germany. That is the principal reason.

Mr. HAUGEN. That is a great dairy country, is it not?

Mr. JELKE. Yes. My father came from there.

Mr. HAUGEN. They have Holstein cattle there?

Mr. JELKE. Yes; I have a large dairy farm, and on it we have some very fine thoroughbred cattle.

Mr. BEALL. It seems to be conceded here, Mr. Jelke, that as a matter of custom or taste or from some other cause the consumer wants a product bearing some shade of yellow as a general thing.

Mr. JELKE. They do; yes, sir.

Mr. BEALL. Now, I understand that the best grade of oleomargarine is comparatively white.

Mr. JELKE. The best grade is comparatively white unless mixed with June butter, fresh made.

Mr. BEALL. Now, when you take the best grade of oleomargarine and make it into a product that will conform to the taste or habit, or whatever it is among people that induces them to want the yellow, you must add artificial color?

Mr. JELKE. Add artificial color.

Mr. BEALL. And to do that you must pay the 10 cents a pound tax?

Mr. JELKE. That is the idea.

Mr. BEALL. The only alternative you have, in order to give to the people the yellow color they desire, other than the paying of the tax on a high quality of the product, is to manufacture another product?

Mr. JELKE. Yes, sir.

Mr. BEALL. In which there is no artificial color?

Mr. JELKE. Yes, sir.

Mr. BEALL. But this last product is made out of material that is inferior to the high-grade material that goes into the white oleomargarine?

Mr. JELKE. Yes; excepting the June butter, if fresh June butter is used. I believe that all the manufacturers will agree with me that the more yellow the fat, the——

Mr. BEALL. The effect of this tax, then, of 10 cents a pound, is to give the consumer a product that is inferior to the product that he would obtain if you were permitted to put a harmless artificial coloring into it?

Mr. JELKE. Yes, sir.

Mr. BEALL. Now, under present conditions, if he gets the product that the artificial coloring is put into, he must pay the additional price of 10 cents a pound for it?

Mr. JELKE. Yes, sir.

Mr. BEALL. And the present law in that way compels the consumer to accept an inferior product that is colored not artificially, or to pay an increased price for the higher grade of article that is colored artificially?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. I understood you to say that 35 per cent of the ingredients consisted of lard and products of the hog?

Mr. JELKE. Yes, sir.

Mr. HAUGEN. And only 10 per cent is butter produced from milk or cream, approximately?

Mr. JELKE. I gave you an approximate figure from the better and lower grades. It may vary 5 per cent from either of those points, Mr. Haugen.

Mr. HAUGEN. Inasmuch as you use 25 per cent of the one and 10 per cent of the other, why not brand it "Cochin China," for instance, so far as the name is concerned?

Mr. JELKE. We are not sticklers for that. We have already begun to make the way clear to drop the name "Holstein." We did not want to do anything suspicious when we used that name. We had no idea of——

Mr. HAUGEN. I make that suggestion simply——

Mr. JELKE. We adopted that name. Then we adopted the words "Good Luck," and we hope to bring it good luck if we drop the name "Holstein."

Mr. CHAPMAN. Do you export any oleomargarine?

Mr. JELKE. No; we do not; none to speak of, for several reasons. In the first place the red tape that we have to go through with in exporting from Chicago makes it quite burdensome, and then we are in competition with some of the churners on the other side.

Mr. HAUGEN. You do not find a very ready sale for it abroad anywhere, do you?

Mr. JELKE. There would be a large sale for it, Mr. Haugen.

Mr. HAUGEN. They have very strict laws prohibiting it, have they not?

Mr. JELKE. There would be a large sale for oleomargarine in very many countries, particularly in the South, if it could be shipped under such regulations as would not entail a lot of unusual marking and the disfigurement of the package. It is not a question of identifying the product, but of the intricacies imposed by the laws requiring the stamp to be placed upon it, and then the going through the formula of getting the money back and paying the tax is burdensome. Oleomargarine in the foreign countries could not be sold white. It must have the yellow color because they are accustomed to that. In all the southern countries oleomargarine must be yellow.

Mr. HAUGEN. The fact is that in foreign countries it must be sold as oleomargarine. It is not even allowed to be sold in the same store building?

Mr. JELKE. That is in some countries. There is not a single country except in the United States, Mr. Haugen, that places a tax on the poor man's food, oleomargarine; not a single country. They may place restrictions upon it such as will identify it, but—

Mr. HAUGEN. It is not necessary in those countries to bring it under the police regulations as it is in this country?

Mr. JELKE. It might be if they had such laws as we have here making it an inducement.

The CHAIRMAN. Have you concluded your statement, Mr. Jelke?

Mr. JELKE. Yes; I am through.

Mr. STANLEY. Mr. Jelke, I want to ask you a question. As I understand you, if your product was subjected to only such just and civil regulations as would identify the product, rather than penalize its manufacture and tie the hands of those who are consuming it by restrictions that are burdensome and troublesome and difficult, you believe that you could export large quantities of this product abroad?

Mr. JELKE. We do.

Mr. STANLEY. Are the products which enter into the composition of oleomargarine, with the exception of butter and milk, exported in large quantities from this country?

Mr. JELKE. Yes, sir.

Mr. STANLEY. Can you manufacture oleomargarine as cheaply abroad as you can in this country?

Mr. JELKE. Well, in the question of labor costs, our labor costs here are probably greater than they are in the other countries.

Mr. STANLEY. Your labor cost of butchering beef is the same. Is there a greater labor cost in the manufacture of oleomargarine than there is in the butchering cost of the packing of beef and lard?

Mr. JELKE. Well, the labor cost would not be such a very serious problem because oleomargarine at present is made in a large way by improved machinery, so that the labor cost is not so serious a prob-

lem that we would have to contend with. To offset that, we would have the freight competition on the raw products which would help us out in that way.

Mr. STANLEY. You are peculiarly advantageously situated with reference to obtaining the raw material in Chicago?

Mr. JELKE. Yes, sir.

Mr. STANLEY. Then this export of oleomargarine, whatever business there might be, is destroyed by unwise legislation at present?

Mr. JELKE. Yes, sir.

Mr. STANLEY. At least by burdensome legislation?

Mr. JELKE. Yes, sir.

Mr. STANLEY. Are these various regulations, you think, necessary for the identification of your product? Of course they are necessary to the penalizing of it, but are they necessary for its identification in the markets of this country?

Mr. JELKE. My opinion is this, that if the housewife was furnished oleomargarine in an identified form so that she could become familiar with the product itself, you could not fool her by selling the same product at 10 cents a pound more, because the housewife has a keener sense of taste and smell than the husband or man of the house, who perhaps uses a pipe or tobacco and there is no telling what. [Laughter.]

Mr. STANLEY. I want to ask you another question. If these restrictions of which you complain were removed, what effect would it have upon the price of your product in the markets generally? Would there be this variation between the yellow and white oleomargarine if you could sell it by simply identifying it and have some law under which regulations could be made which would be easy of compliance with on the part of the honest dealer, as in the case of cigars? And if you could sell your oleomargarine colored or uncolored simply by identifying it from butter what effect would it have as to these varying prices between white and yellow oleomargarine upon the laboring man?

Mr. JELKE. It would practically have no effect. I do not see how it could have any effect. Perhaps I do not catch the drift of your question.

Mr. STANLEY. You speak of a great variation between the white and the yellow oleomargarine.

Mr. JELKE. That is occasioned by the value put upon colored oleomargarine by the 10 cents a pound tax.

Mr. STANLEY. If those restrictions were removed, there would be little difference between the cost of the white and the cost of the yellow oleomargarine in the market?

Mr. JELKE. Practically no difference. The cost of putting in the color would not add anything to the value of the oleomargarine; not one-tenth of a cent per pound.

Mr. STANLEY. Under such circumstances as I have mentioned, what would the laboring man have to pay for oleomargarine? Is not oleomargarine resembling butter good enough to satisfy the refined taste of a woman?

Mr. JELKE. He would probably pay the same price as he now pays for the white, and save the fussing on the part of his wife who has to drop her work and take the trouble to color it. We do not all have servants. I know when I was married and first went to house-keeping my wife did not have a servant and she did the housework,

and I think it would be a mistake for her to stop her work and let the baby cry while she colored the oleomargarine.

Mr. BEALL. To what extent is oleomargarine made abroad?

Mr. JELKE. Oleomargarine is made in Rotterdam, in Holland, and single factories produce as much oleomargarine in Holland as the entire product of the United States of all the manufacturers, and they supply a demand from all around the world. They fit out and furnish oleomargarine to the ships that come into New York Harbor and Boston and Philadelphia. We can not supply the ships with oleomargarine under this present law.

Mr. BEALL. Is it oleomargarine colored or uncolored?

Mr. JELKE. It is colored; all of it.

Mr. BEALL. Is any tax imposed in that country because of the color?

Mr. JELKE. No tax is imposed. There is no tax in any country of the world except in the United States.

Mr. LEE. Did you state there was a law that it must be colored?

Mr. JELKE. No, sir; it must be colored to supply the demand.

Mr. STANLEY. Does Holland compete with the United States in the exporting or handling of any of the materials that enter into the making of oleomargarine?

Mr. JELKE. No, sir; Holland buys a large portion of her supplies from this country.

Mr. STANLEY. And then takes the export trade away from the United States?

Mr. JELKE. Yes; she takes the export trade away from the United States.

Mr. STANLEY. Is that due entirely to this law?

Mr. JELKE. I do not say it has entirely to do with it, but the law itself puts up a bulwark that we can not surmount. In the first place, the product is known all over the world as "margarine," and we call it "oleomargarine." The foreigners, for instance the Chinese and the Japanese, want their goods put up in a certain form to suit their markets, and it may be a better quality, but you can not introduce it. They are accustomed to a certain style of package, and unless we can put up the goods in the same way they will not buy them.

Mr. HAUGEN. Did I understand you to say that foreign countries prohibit the coloring of oleomargarine?

Mr. JELKE. In Denmark the coloring of oleomargarine is prohibited, but they permit without restriction the coloration of the oleomargarine by the consumer, by the ultimate consumer.

Mr. HAUGEN. In France they prohibit it?

Mr. JELKE. Yes; in France, also.

Mr. HAUGEN. And Canada prohibits the manufacture of it altogether?

Mr. JELKE. Canada prohibits the manufacture entirely.

The CHAIRMAN. The committee will now stand adjourned until 2 o'clock this afternoon.

(Thereupon, at 12.15 o'clock p. m., adjournment was taken until 2 o'clock p. m.)

AFTERNOON SESSION.

The committee reassembled at 2 o'clock p. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. If there is no objection to proceeding without a quorum present, we would be glad to begin the hearing. It will all appear in the record, and members will probably be detained only for a few minutes.

Mr. McCARTHY. Mr. Chairman, I would like to say that Mr. Burleson expected to be here to introduce the speakers. If you will just wait a moment or two, perhaps Mr. Burleson will be here. Otherwise, if Mr. Cabell wants to go ahead and make a statement that might save time.

The CHAIRMAN. Mr. Commissioner, have you a set statement that you desire to make, or are you here just to answer questions and give information?

Mr. CABELL. Yes, sir.

The CHAIRMAN. I have no idea as to what Mr. Burleson desired to bring out through your testimony, and pending his arrival I expect, if anybody else is ready to go on, we had better excuse you for a few moments and then you can go on later.

Mr. CABELL. That will suit me. I am here at the service of the committee.

Mr. McCARTHY. Then we will introduce Mr. Keith.

The CHAIRMAN. Mr. Keith, will you please state your name to the stenographer and the position you occupy or what you represent?

STATEMENT OF MR. BARNEY C. KEITH, CHIEF OF MISCELLANEOUS DIVISION, INTERNAL REVENUE BUREAU, TREASURY DEPARTMENT.

Mr. McCARTHY. Mr. Keith, will you tell us what has been your experience in enforcing the oleomargarine laws and the various butter laws?

Mr. KEITH. That is a rather broad question. If you will specify what line you particularly want an answer to, I think I can answer you more clearly than if I were to enter into a general statement.

Mr. McCARTHY. What has been your experience, then, generally in regard to frauds committed in the sale of oleomargarine during the last year as compared with the previous years?

Mr. KEITH. I would say they were much increased. A greater number of violations have been discovered in the past year than in the previous years.

Mr. McCARTHY. In what class of people do you find these frauds? What class of people are committing them? Are they peddlers, or farmers, or what class of people?

Mr. KEITH. Peddlers and men whom we call "moonshiners"—men engaged in the manufacture and coloring of oleomargarine without payment of special tax or the payment of stamp tax.

Mr. McCARTHY. Do you find any considerable amount of fraud committed in that connection on the part of retail grocers?

Mr. KEITH. I would not say there were so many violations by retail grocers.

The CHAIRMAN. What business ostensibly are these moonshiners engaged in?

Mr. KEITH. Ostensibly in the butter business. Some of them do handle butter, and some of them oleomargarine only.

The CHAIRMAN. What they do as a matter of fact is to buy the uncolored oleomargarine, which has paid the quarter of a cent tax, and then color it and sell it for butter?

Mr. KEITH. To some extent, and some of them sell it for oleomargarine colored by placing it in the original packages out of which the former contents, colored oleomargarine, have been removed and sold, and which has been covered by the tax-paid stamp of 10 cents. Then they sell it, some of them, for butter, and some of them for oleomargarine straight.

The CHAIRMAN. Which do you think constitutes the greater part of the frauds, the sale as butter or the fraud upon the revenue merely for the sale of oleomargarine?

Mr. KEITH. I should say it is about evenly divided; that there is about as much fraud in the evasion of the 10-cent tax as there is in the effort to sell it for butter.

Mr. MCCARTHY. Do you find that farmers to any extent buy oleomargarine and sell it for butter?

Mr. KEITH. We have had cases where farmers had sold their milk to creameries and bought oleomargarine, and some of them, I believe, have sold it for butter.

Mr. HAUGEN. Do you know of any such instances?

Mr. KEITH. I know of such instances.

Mr. HAUGEN. How many?

Mr. KEITH. Well, that is a good while back. I would not attempt to specify the number.

Mr. HAUGEN. This law is only six years old.

Mr. KEITH. There have been a good many violations in six years, and I could not keep them all in mind.

Mr. HAUGEN. How many cases do you know of?

Mr. KEITH. Offhand, I would say that there is one case that I have an immediate recollection of.

Mr. HAUGEN. Just one case?

Mr. KEITH. I would not say just one case, but there is only one that I can recall.

Mr. HAUGEN. Just one case?

Mr. KEITH. Yes; as stated.

Mr. HAUGEN. You are making a lot of halloo about one case, are you not? What does this mean about this report here, about the wholesale violations of the law?

Mr. KEITH. That is about the evasion of taxes. That is the report of the Commissioner of Internal Revenue.

Mr. HAUGEN. Why was not this law enforced?

Mr. KEITH. That is the report of the commissioner, who is here to answer for himself about that feature.

Mr. HAUGEN. I understood you were representing the commissioner here.

Mr. KEITH. No, sir. He will be heard later.

Mr. HAUGEN. Is this the commissioner here?

The CHAIRMAN. Yes.

Mr. MCCARTHY. Has the fact that a color line has been drawn with a 10-cent tax on the colored been of any assistance to the department in the enforcement of the oleomargarine laws?

Mr. KEITH. I should say not.

Mr. McCARTHY. Has that 10-cent tax, in your opinion, been an incentive to some of these frauds?

Mr. KEITH. Yes; undoubtedly. You will find that statement in the annual report for the past year.

Mr. HAUGEN. Would you mind explaining how that is an incentive in your mind?

Mr. KEITH. Why, that would only be my opinion, sir.

Mr. HAUGEN. You have some reasons for it. You have no opinion without a reason?

Mr. KEITH. We have figures that we have compiled. I have simply drawn my inference from those figures.

Mr. McCARTHY. Could you give us those figures?

Mr. KEITH. I believe so.

Mr. HAUGEN. You have no evidence of that, though?

Mr. KEITH. During the fiscal year 1902—and I will explain this by stating that I got these figures from the collectors of the various districts, who keep a record of all violations—during the year 1902 there was a total of 738 violations discovered.

Mr. HAUGEN. What year was that?

Mr. KEITH. The fiscal year 1902.

The CHAIRMAN. That was while the old law was in effect—the last year of the old law?

Mr. KEITH. Yes, sir.

Mr. HAUGEN. Have you any figures as to the amount sold in violation of the law, the number of pounds that were sold in violation of the law, or to what extent the frauds have been practiced?

Mr. KEITH. We have no figures that will show that.

Mr. HAUGEN. How long have you been in the Treasury Department?

Mr. KEITH. This is my eleventh year.

Mr. HAUGEN. Have you been familiar with the frauds practiced on the oleomargarine law?

Mr. KEITH. Only as they come under my eye in the department.

Mr. HAUGEN. Are you familiar with the violations that took place before the passage of this present law?

Mr. KEITH. Yes. I have just read the figures.

The CHAIRMAN. He read the figures for the last year of the operation of the old law.

Mr. HAUGEN. I would like to ask you how many violations there were in 1899? How many dealers violated this law? You say 738 in the last year.

Mr. KEITH. I have not the figures for 1899.

Mr. HAUGEN. For your information I will state that there were 5,492 for the year 1899 throughout the States that made their reports to the Treasury Department. I have Secretary Gage's report for it.

Mr. KEITH. The report of the Secretary of the Treasury?

Mr. HAUGEN. Yes.

Mr. McCARTHY. If I may be permitted, I would like to ask Mr. Haugen if that is the report for oleomargarine alone?

Mr. HAUGEN. Yes; in those 32 States that enacted laws in reference to the same.

The CHAIRMAN. This report has been mentioned several times. I have not seen it. This is what I am asking about: Do the figures

you are quoting refer to violations of the law in each of the various States, the violations of the state law, and not to violations of the federal law?

Mr. HAUGEN. Oh, no.

The CHAIRMAN. Then your report can not be read in connection with Mr. Keith's, because he is speaking only of the violations of the federal law which have been brought to the attention of the Office of Internal Revenue, and I suggest that you permit him to read the statement which he started to read so that it will come into the record in a tabular form, showing the number of violations. I understand, Mr. Keith, your figures begin with 1902?

Mr. KEITH. I have three years; 1902, 1908, and 1909.

The CHAIRMAN. Will you please read them right into the record?

Mr. BEALL. Read 1902 again, so that we will get it all together.

Mr. KEITH. In 1902 there were 738 violations.

Mr. HAUGEN. In 1902?

Mr. KEITH. Yes, sir. In 1908 there were 1,349 violations, and in the fiscal year 1909 there were 1,858 violations discovered.

Mr. MCCARTHY. Violations of the federal law?

Mr. KEITH. Yes, of the federal law. We have nothing to do here with the state laws.

The CHAIRMAN. May I inquire there whether you have any information that would justify you in forming an opinion as to whether the increased number of violations reported in these later years is due to the fact that there were more violations of the law or that the law was more strictly enforced?

Mr. KEITH. That is rather a hard question to answer. I believe the officers have endeavored to enforce the law ever since it has been on the statute books, but there may be something in that. However, in my opinion, the greater number of this increase is due to the incentive to fraud under the present law.

Mr. HAUGEN. Now, as a representative of the Treasury Department I want to ask you this question: Do you believe the law should be repealed because it is violated and not enforced by the department?

Mr. KEITH. That is for Congress to decide.

Mr. HAUGEN. That is a fair question. You seem to be expressing opinions. You think it should be repealed because it is violated?

Mr. KEITH. I would prefer not to express an opinion. The Commissioner of Internal Revenue is here, and he can express an opinion for the Treasury Department.

The CHAIRMAN. I think we had better limit our questions to questions for information rather than for opinions.

Mr. HAUGEN. I would like to have his opinion on that question.

Mr. BURLESON. I will give you an opinion on that, if you want it. I think it ought to be repealed. [Laughter.]

Mr. BEALL. What is the character of the violations of the law to which you have referred—in what did they consist?

Mr. KEITH. They consisted in part of the addition of coloring matter to uncolored oleomargarine and the sale of oleomargarine without the payment of the special tax. There are two rates of special taxes, I will explain, and the sale of the artificially-colored oleomargarine without the payment of the special tax at higher rates is an offense on the part of the dealers who have only qualified to sell the uncolored product, the same as is the sale of the product without marks or brands, as required by our regulations.

Mr. BEALL. Can you give any information as to the relative number of those violations and the different provisions?

Mr. KEITH. Only in so far as we can distinguish between those violations where prosecutions were instituted and where assessments of special taxes were made.

Mr. HAWLEY. How many towns were involved in those violations?

Mr. KEITH. That I could not state.

Mr. HAUGEN. What is the amount of the fines collected?

Mr. KEITH. We do not have that. The Department of Justice would have those figures. We do not keep those records.

Mr. HAUGEN. Is the money not paid into the Treasury?

Mr. KEITH. It is not paid into the Internal Revenue Bureau.

Mr. HAUGEN. Could you give an estimate?

Mr. KEITH. No, sir. I would not attempt to give any estimate.

The CHAIRMAN. Have you a statement there showing in how many of these cases convictions have been had?

Mr. KEITH. No, sir. The Department of Justice has those figures also.

Mr. BEALL. Do the records of sales made by manufacturers and wholesalers or jobbers come to your office?

Mr. KEITH. Yes, sir.

Mr. BEALL. The names of all the purchasers of oleomargarine from the manufacturers?

Mr. KEITH. Yes; and from the wholesale dealers.

Mr. BEALL. Are there any records in your office showing that dairy people purchase oleomargarine and violate the law in connection with it?

Mr. KEITH. There are a great number of dealers engaged in the sale of oleomargarine who use the term "dairy" in connection with the firm name—retail dealers and some wholesale dealers. Some use the term "creamery." But we have no knowledge of direct sales to dairy people.

Mr. CURRIER. In response to the question of Mr. Haugen, you said you could recall only one case where farmers and dairymen had purchased white oleomargarine and had sold it as butter. Do you know of any number of cases or have you any record of cases where farmers and dairymen have purchased oleomargarine in considerable quantities?

Mr. KEITH. Yes; we have records.

Mr. CURRIER. I am not asking you whether they sold it for butter.

Mr. KEITH. There are innumerable instances of farmers who have purchased oleomargarine.

Mr. CURRIER. Were those farmers or dairymen engaged in selling dairy products?

Mr. KEITH. We have no information as to that. The officers who investigated such sales would simply report that "this man was a farmer."

Mr. MCCARTHY. I would like to ask you, Mr. Keith, what percentage of ingredients do you find in oleomargarine?

Mr. KEITH. I have here a statement, based on the records of the fiscal year 1909, covering that.

Mr. MCCARTHY. That question, Mr. Chairman, has been brought up several times, and we should have the official record of it.

Mr. BEALL. Is there an analysis of these different products made in your division?

Mr. KEITH. No, sir. They are made by the official chemists. Now, you asked for the percentages, I believe. These are segregated by the two classes of the product, the colored and the uncolored, and the average percentage in the whole as used in the total materials for the fiscal year 1909. I have segregated them because they use different percentages in the two classes of products.

The CHAIRMAN. Before you read that statement, Mr. Keith, will you state how it happened that these analyses were made? Are they analyses of samples that had been seized by revenue agents on suspicion that they contained artificial coloring matter?

Mr. KEITH. They are made in the Internal Revenue Office. They are made in the laboratory of the Internal Revenue Office by the official chemist.

The CHAIRMAN. I understand; but these analyses that you are going to read now—as to them, I say, Were they made from samples of the product that were seized and sent in upon the theory or the suspicion that they contained artificial coloring matter?

Mr. KEITH. Some were made in that manner, and some were of samples bought in the open market. But these percentages, I will state, have nothing to do with that. They are simply the ingredients reported monthly by the various manufacturers and assembled by me.

The CHAIRMAN. That is what I wanted to bring out.

Mr. KEITH. Now, I will take them in the order in which they come here. Oleo oil, in the uncolored, 34.48 per cent; in the colored, 31.29 per cent. The average was 34.29. The next ingredient is milk. In the uncolored, 20.21 per cent; in the colored, 18.23 per cent; the average, 20.09. Neutral, in the uncolored, 16.28 per cent; colored, 16.20 per cent; average, 16.27 per cent. Cotton-seed oil, in the uncolored, 13.99 per cent; colored, 20.42 per cent; average, 14.36 per cent. Salt, in the uncolored, 7.28 per cent; colored, 8.08 per cent; average, 7.33 per cent. Cream, in the uncolored, 3.15 per cent; in the colored, 2.09; average, 3.09. Butter, 3.15 in the uncolored; 0.28 per cent in the colored; an average of 2.98 per cent. Stearin, 0.68 per cent in the uncolored; 2.03 in the colored; an average of 0.76 per cent in the two. Peanut oil is found only in the uncolored, in a percentage of 0.29, or an average in both classes of 0.28 per cent. Sesame oil in the uncolored, 0.29 per cent.

No; I want to correct that. The peanut oil is 0.43 per cent in the uncolored, and 0.37 per cent in the colored, or an average of 0.43 per cent in the two. Sesame oil, in the uncolored, 0.29 per cent; none in the colored, or an average of 0.28 per cent. Sugar, 0.06 in the uncolored, and none in the colored; an average of 0.06 in the two. Glucose, none in the uncolored; 0.79 per cent in the colored, or an average of 0.05 in the two. Eggs in the colored, 0.01 per cent.

The CHAIRMAN. Eggs, did you say?

Mr. KEITH. Eggs.

Mr. HAWLEY. What part? The entire egg, or only the yellow?

Mr. KEITH. I have no information on that point. Now, the coloring matter in the colored oleomargarine was 0.21 of 1 per cent, and none in the uncolored, or an average of one one-hundredth in the entire mass.

Now, I have here the total ingredients of those various classes that I have read.

The CHAIRMAN. When you use the term "colored" in connection with this analysis, you mean by artificial color?

Mr. KEITH. Yes, sir. As I stated before, these figures are not stated upon analysis, Mr. Chairman, but upon the reports of the manufacturers which are filed monthly with the Commissioner of Internal Revenue.

Mr. HAWLEY. Have you ever made any investigation to see whether those reports made by the manufacturers correspond with the actual facts in the case?

Mr. KEITH. I do not understand that question.

Mr. HAWLEY. I understood from your statement that the figures you just read were those compiled from the reports of the manufacturers of oleomargarine?

Mr. KEITH. Yes, sir.

Mr. HAWLEY. Have you ever gone into the open market and taken a large number of samples to see whether the facts correspond with the reports by analysis?

Mr. KEITH. The chemist, I think, has never been required to do that.

Mr. HAWLEY. It is never done?

Mr. KEITH. I would not say that. I am not going into the province of the chemist. He may have done so.

Mr. HAWLEY. Not to your knowledge?

Mr. KEITH. I have no knowledge of it. That is a matter which he is properly qualified to answer.

Mr. BEALL. Do you have any jurisdiction over any kind of manufactured butter?

Mr. KEITH. The Internal-Revenue Office has jurisdiction over renovated butter under the act of May 9, 1902, and butter which might come under the classification of adulterated butter as defined in that act.

Mr. BEALL. Are there any violations of that law reported to your department?

Mr. KEITH. Yes, sir.

Mr. BEALL. How numerous are they?

Mr. KEITH. I would not like to say offhand, but I have figures here, sir. If I understand the question aright, the gentleman asked about violations of law?

Mr. BEALL. Yes; in regard to violations of the law in regard to renovated butter, or resurrected butter, or whatever you call it. [Laughter.]

Mr. KEITH. Here are some statistics that have been compiled in the same manner as those relating to oleomargarine. There were, in the fiscal year 1908, 73 violations.

Mr. BEALL. What was the character of those violations?

Mr. KEITH. The majority of them related to the adulteration of butter. Then for the fiscal year 1909 there were 155 violations discovered.

Mr. BEALL. Seventy-three in 1908 and 155 in 1909?

Mr. KEITH. Yes, sir.

Mr. BEALL. Have you anything showing the ingredients that go into manufactured butter?

Mr. KEITH. Only the reports of the manufacturers which are filed with the Commissioner of Internal Revenue.

Mr. McCARTHY. Have you those ingredients there, Mr. Keith?

Mr. KEITH. No, sir; I have not.

Mr. McCARTHY. What is about the total amount of renovated butter that is produced in this country? Have you figures for that?

Mr. KEITH. I have got the annual report here, which contains the figures.

Mr. HAUGEN. Three million one hundred and thirty-four pounds. No; hold on; that is wrong.

Mr. KEITH. There was produced 47,345,351 pounds.

Mr. McCARTHY. Have you any idea as to how those figures on renovated butter compare with the total production of butter in this country?

Mr. KEITH. No, sir; I have no official knowledge as to the production of butter in this country.

Mr. McCARTHY. Do you find in your investigations any considerable quantity of butter that is loaded?

Mr. KEITH. If you will explain the term "loaded," perhaps I can answer.

Mr. McCARTHY. Filled with moisture or otherwise adulterated; with salt, or any other extraneous ingredients.

Mr. KEITH. We have here the report of the collections from that sort—the stamp tax on butter that was classed as adulterated.

Mr. McCARTHY. If you can not find it readily, let us pass that, Mr. Keith.

Mr. KEITH. I have it right here, sir. From adulterated butter for the fiscal year 1909 the stamp tax was \$13,341.70.

Mr. McCARTHY. How many pounds does that cover?

Mr. KEITH. Multiply that by 10—133,417 pounds.

Mr. McCARTHY. That is where the tax was actually paid. Have you found any violations of that phase of the law in regard to adulterated butter being sold as pure butter, and where you found it was violated?

Mr. KEITH. All this was sold as pure butter.

Mr. McCARTHY. Where the tax was paid?

Mr. KEITH. Afterwards they put it into legal condition.

Mr. McCARTHY. They put it into legal condition after you had discovered the fraud?

Mr. KEITH. Yes; and they had paid the tax.

Mr. McCARTHY. Then, putting it together, something like 48,000,000 pounds of manufactured butter is sold in this country?

Mr. KEITH. I could not say.

Mr. STANLEY. Does butter ever reach a stage of rancidity where it can never be reincarnated? [Laughter.]

Mr. KEITH. That is a question I have no knowledge of. The chemist is best qualified to answer as to that. I could not say.

Mr. HAUGEN. You were speaking about the moonshiners. Where did you locate the moonshiners? Where are they located, and to what extent is the business carried on?

Mr. KEITH. Those people who are engaged in the illicit coloration. That is the term we use for them.

Mr. HAUGEN. Where are they located?

Mr. KEITH. I do not locate them myself.

Mr. HAUGEN. Where do they operate?

Mr. KEITH. They operate in the larger cities of the country.

Mr. LEE. Are there any of them in Iowa?

Mr. KEITH. With all due respect to the gentleman, if he is from Iowa, I will say we found some there; yes, sir.

Mr. HAUGEN. Those are the fellows we are looking for.

Mr. McCARTHY. Would an original package law requiring oleomargarine to be put up only in original packages be of assistance to the Treasury Department in the enforcement of this law?

Mr. KEITH. The Commissioner of Internal Revenue is here, and he can answer that question for the Treasury Department. I would prefer that he should be allowed to answer that question.

Mr. FLANDERS. Mr. Chairman, with your permission I would like to ask one question. Mr. Keith, you testified that in 1902—you have given testimony as to the number of violations in 1902, 1908, and 1909, respectively?

Mr. KEITH. Yes, sir.

Mr. FLANDERS. If I understood you rightly, you did not know whether there was an increased number. Or you said that the fact that you did not find so many in the first year was on account of inactivity?

Mr. KEITH. I beg your pardon, sir. I said that from my information I thought the officers were just as active all along, ever since the law was placed upon the statute books, as recently.

Mr. FLANDERS. My question, Mr. Chairman, did not go to the question of willful inactivity or negligence, but to the question of whether they had means. That is the next question I am going to ask you. Do you know whether there were appropriations made for 1902 for collecting these revenues or detecting violations sufficient to do the work, as the appropriations were made for that purpose in subsequent years?

Mr. KEITH. I have no knowledge of the appropriations. That has nothing absolutely to do with my work.

Mr. FLANDERS. Then, as a matter of fact, all you know is that the reports show those violations. You do not know what the reasons are that they found in the later years more violations than in the first?

Mr. KEITH. How is that?

Mr. FLANDERS. You do not know what the reasons are for their being fewer violations found in the later years than before? You simply know that the records show that fact?

Mr. KEITH. That is what I simply know.

Mr. FLANDERS. Then you are not giving any information of your own, but you are simply reading from a report on that subject?

Mr. KEITH. I am giving the figures that have been compiled on the subject.

Mr. CURRIER. I would like to suggest, Mr. Chairman, as a matter of comparison of the operation of the Grout bill as a law, immediately after it went into force and effect and down to the present time that the present officials are here, and those who came into office subsequent to the passage of the act, that in the absence of former Commissioner Yerkes and former Commissioner Capers, Mr. Hayes, formerly solicitor, is here, and we also have here the present Solicitor of Internal Revenue and the present Commissioner of Internal Revenue; and it is for the committee to decide in what order they wish to hear them.

The CHAIRMAN. It seems to me it would be interesting to hear a statement from the former solicitor, or from the present solicitor or from the present commissioner, whichever one is best qualified to answer that question. I think it would be rather interesting to know how the violations under the two laws have compared.

Mr. FLANDERS. I would suggest to the chairman a question that I would like to ask, or have somebody ask, to bring out the idea I have in mind. I would like to know what time in the year 1902 this law became effective, and how much of the fiscal year is included in that report?

The CHAIRMAN. Can you tell that, Mr. Keith?

Mr. KEITH. The act of 1902 went into effect May 1, but when we speak of "the year 1902" we mean the twelve months ending June 30, 1902.

The CHAIRMAN. So that the operations under the act of 1902 began with the beginning of the fiscal year 1903?

Mr. KEITH. Yes, sir.

The CHAIRMAN. That makes it very easy to make a comparison. I think we had better ask Mr. Cabell to take the stand. You are the Internal Revenue Commissioner, Mr. Cabell, the Commissioner of Internal Revenue of the United States?

STATEMENT OF MR. ROYAL E. CABELL, COMMISSIONER OF INTERNAL REVENUE.

Mr. CABELL. Yes, sir.

The CHAIRMAN. How long have you been connected with the office?

Mr. CABELL. Since September 1 last.

The CHAIRMAN. Were you employed in the bureau prior to that time?

Mr. CABELL. No, sir.

The CHAIRMAN. So that your personal acquaintance with the work of the bureau dates since last September?

Mr. CABELL. Yes, sir.

The CHAIRMAN. Would you be able through your inquiry into the matter, either by conversation with other officials in the bureau or by an examination of the records, to give the committee any information as to the comparative number of violations of the old and new law?

Mr. CABELL. Only by the records. But that comparison would not be of any very great value unless you knew how many field men were working on violations, and how thoroughly the country had been covered. The number of violations reported is not a very true index in a matter of this kind. As to the number of violations committed or occurring I could only give the figures from the records of the number reported and passed upon by the bureau prior to the time I came in.

The CHAIRMAN. Would you give the same figures as those given by Mr. Keith?

Mr. CABELL. Yes, sir. On September 1 last I began a systematic study of the oleomargarine situation in the United States. We have some 40 agents scattered all over the country, and some 67 collectors, and some 100 or more special agents, and I took up the matter personally with each one of the collectors and with each one of our

agents in charge and each one of our inspectors in charge, and got a personal report, which covers completely every section of the United States as to the operation of the present law, and the facts concerning that would be all that I would be competent to speak of.

The CHAIRMAN. We would be glad to have you give any facts that bear on the enforcement of the law.

Mr. CABELL. The field is so broad that I would prefer rather to answer questions which would indicate the lines within which the information was desired.

The CHAIRMAN. Does it appear that the violations of the law are growing more numerous?

Mr. CABELL. Oh, yes. The situation is the worst one we have to deal with in the internal revenue. It is a sore spot in the Internal Revenue Bureau. It is a very distressing condition of affairs.

Mr. BURLESON. You say you made a study of it with a view to deciding in your own mind how this law was being enforced and administered?

Mr. CABELL. Yes, sir. It was common talk around the bureau that the oleomargarine law was unenforcible. The conditions were very bad, and field officers were reporting that it was useless to make cases that the courts would not convict. It was a waste of time and money, they said.

Mr. BURLESON. What were the conditions that the various agents of the Internal-Revenue Department reported back to you that confronted them in the enforcement of this law?

Mr. CABELL. There are a number of fatal defects, as we consider them, in the law itself, as construed by the United States courts. There is also a tremendous incentive to fraud, due to the fact that one tax is forty times as great as the other tax. The law is practically an invitation to crooked dealing, and the crooks all over the country have accepted that invitation, and there is a most disgraceful condition with respect to the practices under the oleomargarine law prevailing throughout the country to-day.

The CHAIRMAN. Will you take those two propositions up, singly? You said in the first instance there were a number of fatal defects.

Mr. CABELL. We consider them so. Probably that is a little strong.

The CHAIRMAN. What do you regard as the defects in the law?

Mr. BURLESON. Are they defects from the administrative standpoint?

Mr. CABELL. Yes; that is the only standpoint from which we are interested. We are not interested in the merits of this controversy.

The CHAIRMAN. What are those defects?

Mr. CABELL. The courts have ruled that this law is a complete set of statutes in itself, and that those portions of the internal-revenue law only which are expressly incorporated into this law are applicable thereto. Consequently, the Internal-Revenue Bureau is deprived of all its remedies, its summary remedies, and we can not impose penalties, and we can only go to places where the business is being operated. In most jurisdictions we are denied the right of search without a search warrant, whereas under the general internal-revenue law we have a right to go wherever taxable articles are, or are supposed to be. In other words, we are denied the exercise of all of our summary rights and remedies as to this oleomargarine law, without which no revenue law can properly be enforced

Mr. BURLESON. Then, from the administrative standpoint, you have reached the deliberate conclusion as a result of this investigation that the enforcement of this law is a hopeless undertaking?

Mr. CABELL. Practically hopeless. Every once in a while we get a favorable United States judge, such as recently happened in Chicago, that would indicate that it is not entirely hopeless, but we get at the same time only one judge out of the whole number in the country that takes that view, and all the others—no, I should not say all the others, for there are some States in which we can get a fairly satisfactory enforcement of the law——

Mr. HAUGEN. That is the fault of the judges, and not the fault of the law.

Mr. CABELL. The Supreme Court has decided that it is the fault of the law.

Mr. HAUGEN. How about the judge in Chicago?

Mr. CABELL. The judge there has imposed extreme penalties under exactly the same conditions as those where others have imposed only a small fine and only thirty days' imprisonment.

Mr. BURLESON. Where the offender is apprehended? But the difficulty is in apprehending the offender, is it not?

Mr. CABELL. Yes; under the present law. Now, if a man gets caught under the present law it is largely his own fault.

Mr. BURLESON. It is gross carelessness on his part? [Laughter.]

Mr. CABELL. I would say he is not as shrewd as the normal person engaged in that business if he is caught.

The CHAIRMAN. I would like to get this into the record in a coherent, consistent way, and I hope, gentlemen, you will not interrupt the witness further.

Mr. CABELL. There are essential defects in the law. I have mentioned the first. The second is the use of the coupon stamp instead of the strip stamp. Now, I will take up the third one second, if you will pardon me for digressing. The taxing section of the statute reads that the tax shall be 10 cents a pound on oleomargarine, provided that on oleomargarine not artificially colored the tax shall be only one-quarter of a cent a pound. I will ask the stenographer to quote the section exactly, and not take my word for it. The statute requires that a tax of 10 cents a pound shall be paid on oleomargarine, provided that oleomargarine not artificially colored in the semblance of butter or any shade of yellow shall be taxed at a quarter of a cent a pound.

Now, the second defect in the law is that word "artificial." We consider that as the little joker that threw the whole statute in the scrap pile. The courts have passed on the meaning of that word "artificial," and by their construction they have put the burden of proof on the Government to show that it is artificially colored, and that is practically impossible to do. You have to do it by the most technical evidence, involving chemical analyses, and when you put the government chemists on the witness stand they will swear to one thing, and then up will come the chemists on the other side and they will swear to another thing, and the usual attack is made on expert evidence, and the jury brings in a verdict of "not guilty." Then the courts have construed that where a substance is used as one of the component material parts and the color is incident thereto that is not artificial coloring. Consequently, June butter can be used, and

eggs, and vegetable oils carrying high colors, with the result that products are being put upon the market in which I do not think any of these dairy commissioners can find any artificial color; products that are as yellow as anything can be. We keep a force of chemists working on oleomargarine and adulterated butter all the time, and we have some reactions now that will tell the pervasive colors that are used, and we are satisfied scientifically that artificial coloring is used, but when we try the case before a jury the verdict is often rendered, "not guilty."

MR. HAWLEY. What are some of these vegetable oils that are used for coloring?

MR. CABELL. I am not familiar with them, but, as a general thing, they are submitted to the Department of Agriculture to determine whether or not they are proper to be used for food, and sometimes we know the vegetable from which such oils are derived, and sometimes not. Mr. Jelke this morning, I believe, gave a list of the oils that were used—mustard oil, and peanut oil, and oils from various vegetables, such as beans, and so forth. Now, that is the result of the construction put upon the word "artificial" from the administrative standpoint.

The third and almost fatal difficulty, as I consider it, is the use of the coupon stamp on the packages. At the risk of digressing a little bit, I will say that the present rate on oleomargarine is supposed in the popular mind to be 10 cents a pound. The statistics are very interesting. Last year 4 per cent of the oleomargarine withdrawn for consumption in the United States was tax-paid at 10 cents a pound, and 96 per cent of the quantity withdrawn for consumption in the United States was tax-paid at a quarter of a cent per pound. That was out of a total of 92,000,000 pounds, quoting from memory. This year, up to the present time, there has been withdrawn something like 108,000,000 pounds, and less than 3 per cent of it is tax-paid at the rate of 10 cents a pound, so that the real rate of tax in the aggregate, as you will see, is a quarter of a cent a pound.

Now there would practically be no 10-cents-a-pound tax but for the fact that the person engaged in fraudulent practices must have the packages with a 10-cent stamp on them in order to commit the fraud, and there is very little more than enough oleomargarine tax-paid at 10 cents a pound to furnish packages bearing the coupon stamp on it in order that such persons can engage in the fraudulent practices. In other words, the law furnishes the means by which fraud is practiced.

MR. CURRIER. Those are the manufacturers' packages?

MR. CABELL. Yes. I will explain that.

THE CHAIRMAN. I did not quite understand what you meant by the fraudulent practices.

MR. CABELL. Here are the practices that we have reported to the bureau every day: A person goes into the business of handling oleomargarine. He will purchase a special stamp to sell the uncolored, and he will purchase the special stamp giving him the privilege of selling the colored. For the one he pays \$6 a year, and for the other \$48, and if he pays the higher tax he can sell both kinds and handle both kinds on the same premises.

MR. STANLEY. Is that a stamp or a license?

Mr. CABELL. A special stamp. The Government does not issue any license. It issues stamps, which are the receipts showing the payment of the proper tax. Or a man who wants to go into this business and takes but one rate, the \$48 rate. We caught five under the very shadow of the Capitol. We have caught them in every city of any size in the United States, and we have not begun to catch all of them, and could not do so even if we used the whole appropriation for the Internal-Revenue Service for that purpose.

Mr. BURLESON. And doubled it in addition?

Mr. CABELL. Yes; even then you would not catch all of them. Now, as I said, if a man is going into this business on a big scale he will buy ten 60-pound packages. They are boxes or tubs or firkins, as they are called, holding 60 pounds, and each one has a stamp on the end of it, stating the name of the manufacturer and the date, and so forth, and showing that it is artificially colored and tax paid at the rate of 10 cents a pound; it is in bulk, 60 pounds in it. He gets 600 pounds and pays the price, which includes the \$60 tax. He puts that in his place of business and sells out of these various boxes, but he never lets them get quite empty. The law requires that when these boxes get empty the stamp shall be destroyed. The courts have decided that as long as these boxes or receptacles contain any quantity of merchantable oleomargarine they are not empty, and consequently they can not destroy the stamp. Now, having let the contents of these boxes or firkins get down to a pound or two pounds each, he will buy a great number of cases of oleomargarine stamped at a quarter of a cent a pound, and have them delivered to his store. You will find them in the upper floor incased in pressed-steel sheets, or we have found them in the basement or rooms adjoining the store; it depends on what chances a man is willing to take; and he will have on that upper floor or in that basement or adjoining room a little apparatus for heating. You do not have to heat it very hot. Less than 100 degrees will make the material plastic; then he will have a little churn in there, sometimes worked by a little gasoline engine and sometimes worked by hand power, and he will take those packages of uncolored oleomargarine and put them in this room, where they will be heated until they become plastic, and he will have his coloring matter mixed with a little milk or something like that, stir it up, and have it in the churn; he will just pour his uncolored oleomargarine into the churn, have his colored package empty, all except one pound, and convenient, give the dasher half a dozen turns, and pour the product out in the package with his 10-cent stamp, and he is safe.

The CHAIRMAN. And the fraud consists in selling colored oleomargarine which has not paid the 10-cent tax as oleomargarine, and not as butter?

Mr. CABELL. Well, the fraud of selling it as butter is a matter that we, the administrative officers collecting revenue, are but incidentally interested in. The fraud is that he has paid the tax on 60 pounds of oleomargarine of 15 cents. He has, in that simple little apparatus, robbed the Government of \$5.85; in a few moments has added to that package of uncolored oleomargarine a value of \$5.85. He can do that with practically absolute impunity, and we have no right to go in there and stop it.

Mr. BURLESON. What do you estimate the annual loss to the Government to be upon that?

Mr. CABELL. I will come to that later. The courts have decided that in order to convict that man you have got to prove both manufacture and sale of that identical product. Here is what we have had. You asked a little while ago why we did not enforce this law. If you will give us a law that we can enforce, we will do it; but here is what we are up against:

We have had this in the last ninety days in one State. We knew that a man was engaged in this practice on a large scale. We shadowed him and watched him until we knew the exact time when he did his mixing. And in that we took great chances, for we have had men shot in doing just such things as that, and were unable to get any redress. But we rushed this place, our officers rushed and broke in. They found four men in there, and they found, I think, 18 packages of white oleomargarine; 4 packages that were still warm with the 10-cent tax on; they found the men in there with bottles of coloring matter and their arms all smeared up with it. Now, we had those men indicted, we went in and showed the evidence, and the judge dismissed them. The judge said that while there was a strong presumption that a man would not be coloring 3,000 pounds of oleomargarine for his own use, yet we had not shown a sale of that particular product, and therefore our officers did wrong to make the arrest; and he let them go. And we run up against that nearly all over the United States. There is not much incentive to spend money in trying to do anything under such circumstances. We have had one man shot, one man in the hospital now from injuries received in being kicked out of a place, and we have no redress whatever.

Mr. HAUGEN. It was not my intention to criticise the department, but to ascertain why.

Mr. CABELL. Well, that is why. And any jack-leg lawyer in this country can drive a team of four through the sections of that law and never touch a wheel.

Mr. HAUGEN. Some contend that an adequate appropriation had not been made for the enforcement of that law.

Mr. BURLESON. Have not the appropriations been what the Internal Revenue Department have estimated?

Mr. CABELL. I think so. I think all the money asked for has been given. I think the Internal Revenue Bureau, generally, though, has felt like throwing up this law.

Mr. STANLEY. Is there not another defect in this law, that the regulation itself is so manifestly abhorrent to the instinctive sense of justice of both the judges and the juries that they look to every legitimate means that they can find to evade it?

Mr. CABELL. Well, that is a moral question that might be reasoned upon, but I would rather not go into that phase of it. I can only state the facts. The incentive to fraud is so great. Here is a little grocer who in five minutes, with practical impunity, can add to the value of a thousand pounds of product—and many of them handle a thousand pounds of product on Saturday—can add to the value of that, get the actual money in his pocket, an amount of \$97 and some cents, and he just does it. It debauches the oleomargarine business throughout the country.

Mr. HAUGEN. Do you mean to say that they sell a thousand pounds of oleomargarine?

Mr. CABELL. Many persons do, but now we come to the other part, where the public is deceived. Our agents have this happen every once in a while, and this is how we catch a man. He begins to take chances, because the idea of profit becomes such a great temptation to him. The merchant will take the 60-pound tub of oleomargarine and set it on the counter, and put a 60-pound tub of butter on the counter. A man will come in and say: "What is the price of butter?" The answer will be, probably, "42 cents." Then the customer will say: "You know that I can't pay any such price as that; is that the price you are charging?" Then the merchant will say: "But I have some butter here which is just as good; it is not dairy butter, but you can't tell the difference, and I will sell you that for 35 cents." Then the customer will say: "Well, let me have a couple of pounds of that," and the merchant will take it out of the box of oleomargarine right before the customer's eyes and sell it for butter. And who is going to be the wiser, unless one of our agents catches it and analyzes it? And then the housewife does not want to come down to court and testify. He has done that with impunity. We have our agents dress up as street-car conductors, or laboring men, etc., and we catch them in that way. Dealers also will start out with oleomargarine on the wagons with all of the marks required by law. After the wagons start the drivers take the wrappers off; and they have sold it this way in the District of Columbia, even right on Connecticut avenue and on Rhode Island avenue.

Mr. CURRIER. You stated that the manufacturer's packages were usually 60 or 100 pound packages. Does not the present law make it imperative on the retail dealer or the peddler, or whoever retails the goods, to break that package and sell from that package in smaller quantities?

Mr. CABELL. That is the present regulation.

Mr. BURLESON. Suppose we had a law requiring—

That all oleomargarine shall be put up by the manufacturer for sale in packages of one and two pounds, respectively, and in no other or larger or smaller package; and upon every print, brick, roll, or lump of oleomargarine, before being so put up for sale or removal from the factory, there shall be impressed by the manufacturer the word "Oleomargarine" in sunken letters, the size of which shall be prescribed by regulations made by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury; that every such print, brick, roll, or lump of oleomargarine shall first be wrapped with paper wrapper with the word "Oleomargarine" printed on the outside thereof in distinct letters, and said wrapper shall also bear the name of the manufacturer, and shall then be put up singly by the manufacturer thereof in such wooden or paper packages or in such wrappers and marked, stamped, and branded with the word "Oleomargarine" printed thereon in distinct letters, and in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, and the internal-revenue stamp shall be affixed so as to surround the outer wrapper of each one and two pound package—

and then requiring that it shall be sold in unbroken packages to the purchaser?

Mr. CABELL. That would be better than it is now.

Mr. HAUGEN. That would take it out of your jurisdiction entirely, excepting as to the regulations?

Mr. CABELL. Not with the internal-revenue stamp on it.

Mr. HAUGEN. Do you furnish revenue stamps without paying the tax?

Mr. CABELL. We sell the revenue stamps outright.

Mr. HAUGEN. The provision in the bill which Mr. Burleson has been reading from repeals the law entirely. There is no revenue to be derived—

Mr. BURLESON. Every single package has an internal-revenue stamp on it.

Mr. HAUGEN. How much?

Mr. BURLESON. One cent or 2 cents.

Mr. HAUGEN. No; you repeal that law.

Mr. CABELL. I would not attempt to make an answer to that question upon that point. The present revenue stamp is a coupon stamp. According to my understanding of his question, If it were made a strip stamp instead of a coupon stamp, would that be easier to administer? And as to that I would say yes.

Mr. HAUGEN. As I understand it, the revenue stamp indicates the amount of tax paid?

Mr. CABELL. Yes.

Mr. HAUGEN. And if no tax is paid—

Mr. CABELL. Then no stamp would be furnished. But that is something that I would not be at all interested in. My understanding of the question and my answer was predicated upon that understanding, that we at the present time use a coupon stamp. I was not considering the rate or anything of that kind. My understanding of the question was whether a "strip" stamp would be easier to administer than a coupon stamp, and I say yes, it would.

The CHAIRMAN. The main point in Mr. Burleson's question, I think, was to get your opinion as to whether a law requiring the sale of the original unbroken package would, in your opinion, be easier to administer than the present law.

Mr. CABELL. Yes, sir; we designate that by the "strip" stamp.

Now, in the latter case, the offense is complete in the single transaction, but in this other, we have to go in and see the process of handling and trace it from the factory down, which is practically impossible. If we had the original package and the strip stamp, each package would stand on its own merits and would be protected by the government stamp singly. If there is any perversion of the use of that package, then the offense is complete in itself.

Mr. FLANDERS. I would like to ask the commissioner what there would be to prevent buying a quarter of a cent stamp and placing it on the package containing the yellow oleo that was not artificially colored?

Mr. CABELL. Just the same thing as now, chemical analysis, which is unsatisfactory.

Mr. FLANDERS. They can deceive the public so far as the color is concerned by putting a quarter of a cent stamp on one of those packages containing that oleo that is yellow, and there is not in it any artificial coloration.

Mr. CABELL. Of course as long as there is the great incentive of forty times the tax on one package that there is on another—and we find that even on tobacco, where there are only slight differences in rates—there is an incentive there which is sufficient to produce a considerable amount of fraud. With the white or tinted at a dollar tax and the colored package at \$40—and the public prefer the colored product—you will have that great fraud, and you can not invent any machinery that will protect or will defeat the ingenuity of persons where you give them that much incentive to commit fraud.

The CHAIRMAN. The point of that statement is that as long as there is a wide difference between the tax charged on uncolored and on colored oleomargarine that incentive to fraud will exist.

Mr. CABELL. The fraud will be in proportion to the incentive. Where you have forty times the tax on one that you have on the other, the ingenuity of man will beat that in some way.

The CHAIRMAN. And the logic is to have some tax on all qualities of oleomargarine, whether colored or uncolored.

Mr. CABELL. That would be correct from the administrative standpoint, from which standpoint I am speaking solely.

Mr. FLANDERS. Now, Mr. Commissioner, wouldn't that depend upon the proposition of whether, after you had succeeded in avoiding that tax and got the oleomargarine of the right color, that they added just the difference in the tax to the price?

Mr. CABELL. I could not answer that question; that is a matter that I am not competent to speak of. And I think I should state here that we have to look at this matter in a somewhat practical way. As it is handled in the Internal Revenue Bureau, we have to consider it as an internal-revenue measure. The revenue derived therefrom is going down steadily, until now it is almost negligible.

The CHAIRMAN. How does the revenue derived from oleomargarine compare with the expense of collecting it?

Mr. CABELL. We do not segregate the expense, consequently I can not answer your question specifically. I will state, however, that last September I put practically one-half of our field force, that is, 100 men, working on oleomargarine. The expense of the field men runs, the salaries and expenses, the lowest price we pay is approximately \$1,000, from \$1,000 to \$1,800; and the expense will run from \$1,000 to \$2,000 a year, according to the territory. For the last year we have had almost exclusively on oleomargarine 100 to 150 men, and the expenses in the Department of Justice have been enormous. I would say that we have spent nearly as much on handling oleomargarine in the last ten months as we have collected from the tax. This is not counting the special taxpayers. We get considerable money from them, which is collected almost without cost. The oleomargarine this year will run 130,000,000 pounds, against last year 97,000,000 pounds, but the revenue from tax will be smaller.

Mr. BURLESON. A uniform tax of 2 cents a pound on colored or uncolored oleomargarine, under the provision in the bill which I read to you a while ago, would minimize the fraud, would it not?

Mr. CABELL. I would like to be understood as saying that the rate of tax is entirely immaterial; we only ask that the administrative features—

Mr. BURLESON. Well, then, leave out the 2 cents per pound. I say that a uniform tax on colored and uncolored oleomargarine, making it the same, with the provision in the bill that I have read given the force of law, would minimize this fraud materially, would it not?

Mr. CABELL. Your law just relates to one section. It would depend entirely on what else you put into that law. You have a taxing section, and from what I heard read you have not covered the administrative features. You might have that law and still not improve the administrative features.

Mr. BURLESON. The same administrative features that are applicable to tobacco and whisky are made applicable to this.

Mr. CABELL. You must consider that a single rate of tax would not furnish the incentive to fraud that would be furnished by a double rate. If there were a double rate of taxation, the more nearly they would approach together, the less incentive there would be to transfer from one to the other; and in any tax there is some evasion.

Mr. FLANDERS. When you speak of fraud, do you mean the fraud practiced upon the Treasury Department?

Mr. CABELL. Yes, of course. The debauching of the trade, and the fraud upon the public is a matter which I, as a citizen, am interested in, but as Internal Revenue Commissioner I am only interested in it incidentally.

Mr. FLANDERS. Now, one more question. I have assumed from what I have heard you say that you are assuming, or else that you know, that when this coloring matter is added to 100 pounds of oleomargarine, that it adds to the value of the product \$9.75. Now, what I want to get at in this question is this: Does that add that much value; or, in other words, does a man sell it for \$9.75 more than he otherwise would?

Mr. CABELL. No, sir; and that is where the Government loses out. Here is a man who has paid that \$9.75, and he has got to sell his product so as to get that back; while the man who does not do that will sell for \$8.75 and put him out of business.

Mr. FLANDERS. You mean to be understood that he avoids paying the \$9.75 to the Government, and takes his chance on making more out of the oleomargarine than he would if he sold it white?

Mr. CABELL. Yes, sir.

Mr. FLANDERS. That is, in order to make more out of it, he must approximate the price of butter?

Mr. CABELL. Well, some do and some do not.

Mr. FLANDERS. Do you know whether, as a rule, they do or not?

Mr. CABELL. I can only say what our agents report, and that covers not one but many cases. We send a man out into the field and have him conduct two sets of experiments. First we hunt for the factory which is surreptitiously using artificial coloring matter. We have several seized right now where the artificial coloration is being used. We send out expert officers to shadow the factories and to get at the fountain head. Then we send out another set of officers who cover the dealers and peddlers, and they approach those men in two ways: First they approach them to buy oleomargarine, white and the colored, and take down data about the respective costs. In the Chicago campaign our agents very generally purchased oleomargarine; we had it analyzed and found it artificially colored; and while they had a special tax to sell artificially colored, we found they were selling artificially colored oleomargarine at a price less than they could purchase it to save their lives; and we accepted that as a basis to get up the evidence to hold them on. That is one line we worked on. And we found that they had anywhere from one-half to three-quarters of the difference in the rate of taxation—that is, they sell it from 1 to 3 cents lower than the man would have to sell it who handled it honestly. Then the second line of investigation is to find out the man selling it as butter, and we found them doing both. I haven't any record as to what proportion are doing both, but we found them.

Mr. FLANDERS. I understand from your statement that in all human probability the success of this movement is in first avoiding

the tax, and then, second, in selling the product at the enhanced price, in order to succeed financially. And that would depend upon whether he can make the public pay more for the product by virtue of the deceptive character—and I don't want to put that in an offensive sense—but by virtue of its being colored so that it might pass as butter; and it enables him, by the first fraud, to sell it cheaper than the fellow paying the tax—

Mr. CABELL. I will ask you to make that your own statement, and not include it as a question to me. I can answer a more direct question.

Mr. FLANDERS. Of course I did not want to ask you to answer any more moral questions.

The CHAIRMAN. I understood you to say that you had no data which would enable you to state the relative proportion of fraudulent sales in which the oleomargarine was palmed off on the customer for butter.

Mr. CABELL. No, sir.

The CHAIRMAN. But from what your inspectors have said you must perhaps have formed some judgment of the extent to which such frauds were committed. Would you be willing to state to the committee what your judgment was?

Mr. CABELL. With the understanding that it is based upon data that is incomplete.

Mr. BURLESON. That is hearsay.

Mr. CABELL. The idea that I have formed is that while 3 per cent of the oleomargarine manufactured is taxed at 10 cents per pound, probably 80 per cent, as it reaches the consumer, has been artificially colored, and the Government defrauded out of $9\frac{1}{2}$ cents a pound on each pound; and that probably the public have been deceived as to the nature of one-half of that sold being artificially colored.

The CHAIRMAN. That is to say, they have been led to believe that it was butter and not oleomargarine at all?

Mr. CABELL. Yes, sir.

Mr. STANLEY. Do you assume, in that data, that all colored oleomargarine is artificially colored?

Mr. CABELL. That is a distinction that we make. Recently manufacturers have begun to put tinted oleomargarine on the market, and that tinted oleomargarine is generally sold under its own name—that is, being put in labeled packages. There are one or two manufacturers selling oleomargarine under its own name, but most of the tinted goods being put out now which under the law is uncolored—that is, the color having been added by one of the ingredients—is sold under its own name, oleomargarine.

Mr. MCCARTHY. If they could put artificial coloring matter in there, don't you think it could be sold under its own name as tinted? You have expressed the opinion there that tinted is being sold as oleomargarine.

Mr. CABELL. I am expressing an opinion as to what has happened, but not as to what could have happened.

Mr. HAUGEN. What kind of revenue stamp would be furnished under the bill H. R. 13842, introduced by Mr. Burleson? To begin with, it states "That the act of May 9, 1902, entitled 'An act to make oleomargarine and other imitation dairy products subject to the laws of any State or Territory or the District of Columbia into which they

are transported," etc., and also "the act approved August 2, 1886, be, and is hereby, repealed." On page 4 of the bill Mr. Burleson had pointed out the taxing provision of the bill, which reads: "That the Secretary of the Treasury shall prescribe and the internal-revenue stamp shall be affixed so as to surround the outer wrapper of each 1 and 2 pound package." What kind of a stamp would be furnished under such a provision?

Mr. CABELL. What is known as the strip stamp, if I correctly understand the bill.

Mr. HAUGEN. The tax on the oleomargarine will have been repealed, and there is no tax, say. What kind of a revenue stamp will be furnished?

Mr. CABELL. None at all.

Mr. HAUGEN. That is what I wanted to get at.

Mr. BURLESON. But, unfortunately, you do not read section 2: "That sections 3 and 6 of an act entitled 'An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine,' approved August 2, 1886, be amended to read as follows"—and that act, if you repeal this other act, would enforce a uniform tax of 2 cents a pound.

The CHAIRMAN. I think that is a matter which at present we have nothing to do with.

Mr. CABELL. I will state that I made one statement that was a little incorrect in regard to the present law. The only section of this law that holds water is the section relating to adulterated butter, and that has worked, in many cases, a great hardship. We have had to put a good many dairies out of business, and in that really brought about by no fault of their own; and the standard having been fixed as prescribed by the bill, at 16 per cent, the intent not entering into the statute, and the manufacturer's tax being very high indeed. We have gotten any amount of abuse for enforcing that section, which is about the only section that we can enforce.

Mr. LEE. What is the amount of revenue collected?

Mr. CABELL. The amount of revenue collected last year—that is, fiscal year 1909—through the tax upon oleomargarine artificially colored, was \$422,877.77, and uncolored, at a quarter of a cent a pound, was \$215,982.56.

Mr. STANLEY. Is it not true that a great many of these large establishments, such as are represented before the committee, can manufacture millions of pounds of oleomargarine as yellow as butter, in the presence of your detectives and other government officials, without doing anything in violation of the law, and produce the same result that you get with artificial coloring; in other words, have not they perfected the manufacture of oleomargarine in such a way as to obtain the color from the necessary ingredients of the compound, and in such a way as to put it on the market as uncolored oleomargarine legally, while it is actually and visually colored like creamery butter?

Mr. CABELL. The Internal Revenue Bureau, in the first place, has no espionage over the factories. There are no government officers in connection with the collection of revenue assigned to the factories. We simply take their statement and their formula, and we verify those by analyses; and oleomargarine with a certain amount of yellow is undoubtedly being manufactured and put on the market in which none of us have been able to find artificial coloration.

Mr. STANLEY. You spoke of the exercise of espionage over these smaller factories. Of course you would have the same right to exercise it over the larger ones?

Mr. CABELL. Oh, yes, we do that, and every once in a while our chemical analysis shows artificial coloration. But we have not had much success in prosecutions based upon chemical analyses solely, and then we begin to shadow those factories to trace and see where they buy their material from and see where they get their artificial coloration.

Mr. STANLEY. These large factories, such as are represented by gentlemen here this morning, make millions of pounds.

Mr. CABELL. And we watch them, too.

Mr. STANLEY. They put their product on the market; you can go there and get it; and your analyses from those large concerns that make millions of pounds of oleomargarine show that that oleomargarine that they put upon the market is, we will say for the sake of argument, exactly like butter.

Mr. CABELL. We keep a force of men at work on that all the time.

Mr. STANLEY. What do they report?

Mr. CABELL. If we find artificial coloration of butter, we seize the product and try to get at the factory.

Mr. STANLEY. But that is not what I am trying to get at. Do these large concerns violate the law in this way; do you find, in their output, when you examine it, no matter what the color may be to the eye, that it is upon analysis artificially colored or not?

Mr. CABELL. The analysis showed no artificial coloration——

Mr. BEALL. And yet it has the color of yellow.

Mr. CABELL. Yes.

Mr. STANLEY. There is a vast difference, as I see it, between the term "colored" as we have used it in common parlance and the legal term "artificially colored." In other words, I understand that under the ruling of the Supreme Court of the United States it don't matter what the color of the oleomargarine is, if they produce that color by a judicious mixture of certain wholesome component parts, it is fraudulent. Haven't they solved the problem of getting any color they want from that of creamery butter to snow white without violating the law at all?

Mr. CABELL. Practically, yes.

Mr. BEALL. What inducement is there for these so-called moonshiners to buy the uncolored product and add the coloring matter, when they could buy the product with a natural color that bears only the quarter of a cent a pound tax?

Mr. CABELL. I think myself—it is my opinion—that the moonshining will decrease rapidly as the selling of the tinted goods increases, but the tinted goods are only being brought on the market now.

Mr. BEALL. That was a practice that grew up before they discovered the means of giving this color through the artificial means?

Mr. CABELL. I am informed that the product that is tinted is not as palatable, not as good, and that there is not the sale for it as that which is colored. Practically all the artificial coloring used is annatto.

Mr. FLANDERS. When you said that the law was not enforceable, except one portion which you named, you did not have in mind section 1 of the law of 1892 that provides when the goods go from one State to another they become subject to the laws of the States?

Mr. CABELL. We would have nothing to do with the state laws whatever. I was speaking merely from the standpoint of handling the matter as an internal-revenue matter.

Mr. FLANDERS. The reason I asked that question, Mr. Chairman, is that this part of the law is the part that we are much interested in in this bill. I don't think the commissioner referred to that section.

Mr. CABELL. That is something I know nothing about.

The CHAIRMAN. You stated, in reply to a question by Mr. Burleson, that a law providing for the sale of the stamped package in its original form would be easier of administration than the present law, but your statement was made in a manner which indicated—which suggested to my mind—that you had in your own thought other amendments that might be made which would be more effective. Have you any such amendments that you would care to suggest?

Mr. CABELL. No, sir; I have not. I have been studying this merely to get at the facts, and really I have no suggestions.

The CHAIRMAN. You stated that that part of the law which bore upon the process-butter factories had worked a hardship in many cases. In what respect?

Mr. CABELL. Not renovated butter. There are three products recognized under this law—oleomargarine, renovated or process butter, and adulterated butter. Why the name of “adulterated butter” I have been at a loss to know. Shall I explain that a little? Adulterated butter has nothing in it excepting butter and a little too much moisture. Under the law two secretaries, the Secretary of the Treasury and the Secretary of Agriculture, were designated a committee to fix the legal amount of moisture which might be incorporated in butter. The Secretary of Agriculture, I am informed, wished it 12 or 13 per cent, but finally the amount agreed upon was 16 per cent, and that amount has been approved by the courts. Now, dairymen not infrequently—and naturally they should want to leave as much moisture in the product as they can legally, sometimes accidentally and sometimes intentionally or occasionally, but very occasionally—have incorporated more moisture than 16 per cent. There is a pretty good incentive also to sell water at 42 cents a pound. Some of them have done that accidentally. Now, the annual tax for putting out that product is \$600, but in addition to that there is 10 cents a pound on the product. That section has held water-tight, and as a result of that enforcement we really have put numbers of small dairies out of business.

The CHAIRMAN. That is to say, the amount of manufacture is taxed at \$600, together with the 10-cent tax upon the product, which is more than the business will stand?

Mr. CABELL. Yes; and if I might express a personal opinion there, I would say that that section could well be modified to consider either the intent or be graduated on the amount produced.

The CHAIRMAN. I believe you said that the section had held water. I assume from that statement that there have been efforts made to avoid it. What are those efforts?

Mr. CABELL. In certain times of the year—I think some of those gentlemen interested in the dairy business could give you the facts better in that respect than could I—I believe certain kinds of butter produced with the grain unbroken and without salt has to be pro-

duced at a low temperature, and that it is difficult to keep down the moisture content.

Mr. STANLEY. That is the fancy white butter that is used at the bon ton hotels.

The CHAIRMAN. Now, in relation to the process butter——

Mr. CABELL. That is a different section.

The CHAIRMAN. I know it is. In what way have attempts been made to defraud the Government, or, so far as you have observed, to defraud the public, in connection with that section?

Mr. CABELL. I am of the opinion that there has not been a great deal of fraud in connection with that. The moisture content is the same in process butter that it is in pure white butter. Occasionally we find process butter with excess moisture. I don't think that there has been any considerable amount of fraud in that regard.

The CHAIRMAN. No intentional fraud?

Mr. CABELL. No, the amount is very inconsiderable.

Mr. BURLESON. If there was not a limitation upon the amount of moisture, they would be selling water for butter.

Mr. CABELL. I think not. I am reliably informed that the establishment of the moisture limit has resulted in incorporating more moisture in butter than was done before. I am reliably informed that the moisture content at the present time is at least three points higher than it was before the passage of this law, and that the public has lost while they have had to pay an extra price on account of that provision in the law.

The CHAIRMAN. If that is true, how does it happen that a man will unavoidably and without intent to defraud incorporate more than 16 per cent?

Mr. CABELL. In this way. Normal butter has, I am informed, and I must take the reports for this, about 14 per cent; from 12½ to 14 per cent. The big dairies that were formerly putting out butter normally, when the legal limit was raised to 16 per cent immediately increased their moisture content until it was just below 16 per cent; whereas certain special kinds of butter produced in small quantities by small dairies, which make a business of preparing kosher butter for Jews, for instance, or certain special kinds of saltless, unbroken-grain butter, where it is very difficult to get the moisture content in that particular kind of butter below 16 per cent, have suffered. Only a very small percentage of that is put out, while in the great bulk of the butter the moisture content has been raised.

The CHAIRMAN. Have you had any considerable number of violations of the process butter section which requires the butter to be labeled?

Mr. CABELL. No, sir; very few violations. But we do not have anything to do with labeling. We handle the stamps only. The label proposition is under the Department of Agriculture.

Mr. HAWLEY. How does the dairy butter maker ascertain that amount of moisture in his product at any time?

Mr. CABELL. Through an analysis of the product.

Mr. HAWLEY. Have you furnished any standards or any suggestions or regulations to them?

Mr. CABELL. That is a mathematical computation, you know, and you could not really give instructions on that.

Mr. CURRIER. I would like to have the commissioner give the definition of adulterated butter under the laws relating to adulterated butter. I would like to have that section read into the record.

Mr. CABELL. I will ask the reporter to copy it into the record, or I will read it if it is desired.

Mr. CURRIER. I would like to make the point of having that in the record.

The CHAIRMAN. You may read it.

Mr. CURRIER (reads):

That "adulterated butter" is hereby defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter, or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter as herein defined, with intent or effect of cheapening in cost the product, or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream.

Mr. HAUGEN. You have pointed out a number of defects in the law. In your opinion, now, which is the most objectionable, the "joker" that you referred to, the artificial coloring?

Mr. CABELL. A change then could be made to shift the burden of proof.

Mr. HAUGEN. You admit that that is very important?

Mr. CABELL. Very important. But I don't know that I should say that it is the most important.

Mr. HAUGEN. And the change to stamps.

Mr. CABELL. I would consider that also very important. I consider very important those three—what I have referred to as the "joker," and the kind of stamp, and making expressly applicable all those sections of the general revenue statutes which are needed to carry into effect the intent of the law; those three administrative features are most important.

The CHAIRMAN. Could not that stamp matter be reached by a regulation of your office? Is there anything in the law that would forbid you from prescribing a stamp of such a shape to be applied to a package in such a manner that the package could not be opened without destroying the stamp?

Mr. CABELL. The law prescribes the sizes of packages and specifically prescribes coupon stamps.

The CHAIRMAN. Does it prescribe the shape of the stamp or where it shall be placed?

Mr. CABELL. Yes, sir; and as long as you have 60-pound packages you could not handle that without breaking the stamp. And then under the general statute the denomination is prescribed, and the coupon must be put on and detached and destroyed as prescribed.

The CHAIRMAN. Is there anything in the general statute or in this law that would prevent you from requiring this coupon stamp from being attached so that it would lap over the edge of the cover?

Mr. CABELL. The law says that the stamp shall be destroyed when the package is emptied. I take it the stamp could not properly be destroyed before that.

Mr. HAUGEN. You would recommend the repeal of the law because it has been violated?

Mr. CABELL. Oh, no, sir.

Mr. HAUGEN. And other laws are violated, too.

Mr. CABELL. Oh, yes; we fix them up so that they won't be violated.

Mr. FLANDERS. I want to ask you a question, and I do not ask you to answer it if you do not want to. Have you examined any of the bills now before Congress?

Mr. CABELL. No, sir.

Mr. FLANDERS. Then you could not answer specific questions as to any one of them?

Mr. CABELL. No, sir.

Mr. COCKS. Haven't you found any people engaged in simply adding moisture to butter?

Mr. CABELL. I can not say that we have. The law prescribes a rather peculiar method—not peculiar, but the method prescribed by the law in handling this would practically preclude us from catching anyone in the act of using moisture. The examination is made after the butter is offered for sale, consequently we would not have access to it, or we could not base any action on any butter found on the premises of the manufacturer.

Mr. COCKS. I understand from internal-revenue collectors in the vicinity of New York City that there have been a good many violations that are where parties had taken the butter, worked it over, worked in sometimes 10 per cent of moisture, and sold it.

Mr. CABELL. I did not know of those.

Mr. FLANDERS. As I understand you, the joker that you have referred to is a part of the present law that permits the selling of oleomargarine for butter containing no artificial coloration under a quarter of a cent tax. If a bill was passed by Congress changing the wording so that it provided that oleomargarine not in imitation of butter of any kind should have a tax of one-quarter of a cent, and all other butter 10 cents, wouldn't that obviate the difficulty?

Mr. CABELL. That would obviate one of the three difficulties that I pointed out.

Mr. BEALL. But that would destroy the industry.

STATEMENT OF MR. ARTHUR B. HAYES, FORMER SOLICITOR OF INTERNAL REVENUE.

The CHAIRMAN. Please state your name to the reporter, and the official position that you occupy, or have occupied.

Mr. HAYES. My name is Arthur B. Hayes. I was formerly the Solicitor of Internal Revenue for a period of five years, extending from the 18th day of March, 1903, until the 1st of April, 1908.

Mr. BURLESON. Mr. Hayes, what were your duties as solicitor?

Mr. HAYES. I had charge of the legal work pertaining to the enforcement of all the laws confided to the Internal Revenue Bureau of the Treasury Department.

Mr. BURLESON. Did you have anything to do with the suppression of fraud under the oleomargarine law of 1902?

Mr. HAYES. No; not at all. I think there were no cases that I remember of under that law after I became solicitor in March, 1903.

The CHAIRMAN. I think you do not understand Mr. Burleson's question. He asked you if you had anything to do with the enforcement of the law of 1902.

Mr. HAYES. Oh, yes, indeed, in the way of giving advice to the Commissioner of Internal Revenue upon legal questions, and in supervising the actions in court.

Mr. BURLISON. I wish you would state to the committee the extent to which fraudulent practices were resorted to under that law, and the difficulties, if any, you encountered in your effort to prevent those frauds.

Mr. HAYES. The frauds which were the basis of the very large proportion of actions which were brought by the bureau were by reason of the differential in tax or the difference in tax between that imposed upon the uncolored oleomargarine and that imposed upon oleomargarine which was artificially colored. The question as to what was artificial coloration was involved in a number of actions, particularly in Chicago and Cincinnati, and that question was decided by the Supreme Court of the United States, I believe, in what is known as the Cliff case, they holding that in addition to the oleomargarine, the substance which had the only effect of producing color, and which was not a necessary component part of the substance itself, was an artificial coloring. The greater part of the trouble we had arose, as I say, by reason of a difference in the tax, and the attempt on the part of some wholesale dealers and a good many retail dealers to color the white oleomargarine after it had been produced and put upon the market as white oleomargarine, so as to be enabled to sell it for approximately the price of colored oleomargarine without the payment of an additional tax of 9½ cents. I am only speaking from memory, for I have not had access to the records since I severed my connection with the bureau. But as I recollect it, in nearly every case that was put into court, nearly all the cases that were made subject to compromise proceedings on the part of the commissioner and the solicitor and the Secretary of the Treasury, were based upon the fact that persons charged with violation of law were attempting to evade that tax and put upon the market a colored product, having paid the tax on uncolored.

Mr. CURRIER. Mr. Hayes, you were familiar with the administrative features of the law prior to the law of May, 1902, were you not?

Mr. HAYES. Well, yes, in a general way, although I do not remember that specifically now.

Mr. CURRIER. Did you find the frauds practiced under the act of May 9, 1902, exceeded the frauds practiced under the former law of 1886?

Mr. HAYES. During the time I was in office my attention was called to that, and upon investigation I know that I found that the frauds were greatly in excess under the act of 1902.

Mr. CURRIER. Upon examination of those laws did you find that there were any better administrative features, so far as the purely administrative features were concerned, in the law of 1886 as compared with the law of May 9, 1902?

Mr. HAYES. Well, I can answer that better in this way, by saying that there are some administrative features in the law of 1902 that render the enforcement of that law somewhat difficult.

Mr. CURRIER. Well, then, if there were less frauds under the law of 1886 than there were under the law of 1902, and the administrative features, aside from the differential rate of tax, were prac-

tically the same, then would you conclude, or do you conclude, that the difference in the rate of tax was the incentive and cause of the fraud principally?

Mr. HAYES. That would be the logical conclusion, other things being equal.

Mr. BURLESON. You say, Mr. Hayes, that there were administrative features in the law of 1902 which made it difficult to enforce the law. Will you please indicate those?

Mr. HAYES. Those have been pointed out very clearly by the commissioner, who addressed you a short time ago.

Mr. BURLESON. Your experience confirms the correctness of the statement made by Mr. Cabell?

Mr. HAYES. Entirely so.

Mr. BURLESON. Now, Mr. Hayes, you had a number of years' experience there in the enforcement of that law. Suppose the present law was repealed, and a new one enacted which required—

That all oleomargarine shall be put up by the manufacturer for sale in packages of one and two pounds, respectively, and in no other or larger or smaller package; and upon every print, brick, roll, or lump of oleomargarine, before being so put up for sale or removal from the factory, there shall be impressed by the manufacturer the word "Oleomargarine" in sunken letters, the size of which shall be prescribed by regulations made by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury; that every such print, brick, roll, or lump of oleomargarine shall first be wrapped with paper wrapper with the word "Oleomargarine" printed on the outside thereof in distinct letters, and said wrapper shall also bear the name of the manufacturer, and shall then be put up singly by the manufacturer thereof in such wooden or paper packages or in such wrappers and marked, stamped, and branded with the word "Oleomargarine" printed thereon in distinct letters, and in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, and the internal-revenue stamp shall be affixed so as to surround the outer wrapper of each one and two pound package;

And that they shall be sold in the unbroken packages. Would that minimize these frauds or not?

Mr. HAYES. I think it would have a great tendency to do that.

STATEMENT OF MR. FLETCHER MADDOX, SOLICITOR OF INTERNAL REVENUE, WASHINGTON, D. C.

Mr. BURLESON. Mr. Maddox, will you give this committee the benefit of your experience in an effort to enforce the provisions of the present oleomargarine law, and the extent of the frauds practiced under this law, as well as any suggestions that you have to make that would enable or bring about a more thorough enforcement of the law looking to the prevention of fraud?

Mr. MADDOX. Well, my connection with this law comes primarily through my connection with the Department of Justice in the handling of compromise cases. When an offender against the oleomargarine law feels that we, under the law, have got a sufficient grip on him so that he had better settle up with the Government in some way, then he comes in and makes a compromise settlement; offers to square up his special taxes, or stamp taxes, and pay something for the infraction of the law. The case is then made up and submitted to me as solicitor for determination as to the amount which should be accepted, if it is found desirable to compromise the case at all. Many of the cases we feel ought not to be settled, by flagrant violators, at any cost or price, and those are directed to be prosecuted. In

many other cases which are found to be a little weak in the evidence we think it better to accept a compromise settlement, and that is fixed in my office and generally concurred in by the commissioner and the Secretary of the Treasury.

Now, in this present oleomargarine law we have infractions that cover artificial coloring of oleomargarine by large manufacturers down to the little street peddler who sells oleomargarine as butter around at the kitchen door. I am not prepared to say now what proportion of the number of cases which Mr. Keith referred to this morning—1,439 in 1908 and 1,858 in the year 1909—eventually reached my office for settlement. I have not with me any figures that would indicate that. But out of the four thousand and odd violations of internal-revenue laws which passed through my office last year I would say there were perhaps seven or eight hundred of them that possibly might have been violations under this present act. Perhaps that is a little too high, I don't know; it is largely a matter of conjecture just now. But the principal offense under this law is that which has been brought prominently into view at this hearing, and that is the fraud which is constantly perpetrated in the unlawful coloring of uncolored oleomargarine. We have had some very heavy cases where it has been done on a wholesale scale by large manufacturers, but the practice is usually resorted to by the small dealers.

Mr. BURLESON. Now, Mr. Maddox, you heard the Commissioner of Internal Revenue discuss the imperfect administrative features of this law and the difficulties of properly enforcing it?

Mr. MADDOX. Yes; I appreciate them.

Mr. BURLESON. Do you concur in the statement and conclusions stated by Mr. Cabell with reference to this law?

Mr. MADDOX. Yes; the law has carried into it by specific designation certain sections numbered from 3232 to 3243, practically inclusive, with the omission of one or two, and has made that a part of the oleomargarine act; and the courts have uniformly, consistently, and I think properly, held that the expression of those definite sections amounts to an exclusion of all the other sections of the internal-revenue law which are not included. Now the other sections of the internal-revenue law which are not included cover quite a wide field, and I don't know—

Mr. BURLESON. We are familiar with that; but so we were at the time the present oleomargarine law was enacted. Now, Mr. Maddox, you heard me read a provision of the proposed law, which I will draw to your attention without reading it again; and if the present law was repealed and a law enacted providing that oleomargarine is to be sold in 1 and 2 pound packages wrapped in paper and indented with the word "oleomargarine," and upon the paper the word "oleomargarine" was printed, and the internal-revenue stamp wrapped around it, and the law requiring that it should be sold in unbroken packages with a severe penalty for selling it in broken packages, would not that minimize very much or prevent the deception being practiced?

Mr. MADDOX. At a uniform rate of tax?

Mr. BURLESON. Yes.

Mr. MADDOX. Oh, I think the answer to that is that it is obvious that it would.

Mr. BURLESON. That is all.

Mr. HAUGEN. Do you concur with the commissioner that the words "artificial color" should be stricken out, that being the most important amendment to the law?

Mr. MADDOX. That is a very important one, inasmuch as it puts the burden of proof entirely upon the Government of showing the presence of artificial coloring.

Mr. HAUGEN. Do you concur in the suggestions made by the commissioner?

Mr. MADDOX. Yes.

Mr. BURLESON. It would not be necessary to strike out the word "artificial" if there was a uniform tax under the provisions that I have read.

Mr. MADDOX. No; of course that would carry that with it.

Mr. HOWELL. Is it your intention to insert the revenue laws in your testimony?

Mr. MADDOX. Oh, no; this is a list of some which I had prepared back in June, 1909, showing the ones which we could use and which had not been carried into the act.

Mr. CHAPMAN. The administrative features, you mean.

Mr. HOWELL. That would make the enforcement of the oleomargarine law more effective.

Mr. MADDOX. My idea is this, that if we were to draft a new oleomargarine law, and desired to incorporate into it all the sections of the general internal-revenue laws which were applicable, that the sections which I have here before me now are the ones which should be incorporated.

Mr. HOWELL. I would like to have them go in the record.

Following is memorandum of revenue laws referred to:

MEMORANDUM OF SECTIONS OF GENERAL INTERNAL-REVENUE LAW WHICH SHOULD BE EXTENDED TO OLEOMARGARINE LAW.

Sections 3164 to 3171 relate to the duty of collectors to report violations of law authorizing revenue officers to make seizures; prohibiting revenue officers from disclosing operations of manufacturers or being interested in such manufactures; providing penalties for extortion; prohibiting the issuance of stamps before payment and other offenses; prohibiting officers from compromising violations of the law; authorizing damage suits by officers sustaining injuries; all of which sections relate generally to the duty of officers of internal revenue.

Sections 3172 to 3177 relate to the canvass of districts for objects of taxation; annual and other returns; provisions for summoning persons neglecting to make returns; proceedings where no returns are made and penalties provided; authorizing officers to enter premises and providing penalties for obstructing officers.

Sections 3179 to 3231 relate to penalties for making false returns; making lists of taxable property owned by nonresidents; authorizing the Commissioner of Internal Revenue to make assessments; providing for the collection of taxes, receipts, notices, demands, returns, and penalties; creating liens; providing for collection of taxes by distraint; the sale of property under distraint; the purchase of distrained property for the United States; the effect of certification of sale; proceedings for the seizure and sale of real estate for taxes; sale of personal property; certificate of purchase and deed; provisions for redemption after sale; authorizing successive seizures; proceedings in chancery to subject real estate to payment of tax; commissioner to have charge of real estate acquired under internal-revenue laws; providing for lists to be sent to the district where the taxed person resides; providing for collector's monthly statements and accounts; providing for suits for fines, penalties, forfeitures, and taxes under regulation of the commissioner; the payment of moneys so recovered to collectors; authorizing collection of dues from delinquent collectors by distraint and sale; charging collectors with taxes, penalties, etc.; refunding of taxes; suits for recovery of taxes wrongfully collected; limitation of sections; claims for refunding and compromises; all relating generally to assessment and collection of taxes.

Sections 3232 to 3243 relate to the payment of special taxes before engaging in business; registration of business; partnerships; several places of business; time when special taxes become due and returns; stamps for special taxes and posting thereof; list of special taxpayers in collector's office; carrying on business after death; carrying on business without payment of special tax; relation to state laws; all relating generally to special taxes.

Section 3346 relates to the making and using of false stamps or dies, and penalties.

Sections 3445 to 3448 relate to the attaching and canceling and power to change and alter internal-revenue stamps; imprinting new rate on old stamps, and regulations; extending internal-revenue laws to all places within jurisdiction of the United States.

Sections 3450 to 3463 relate to removing and concealing taxable articles with intent to defraud, and penalty; fraudulently executing documents, and penalty; seizure of property in possession in fraud of revenue; sales to evade taxes; disposing of or receiving empty stamped packages; penalties for omitting things required to be done; delivery of seized goods to marshal; bonding perishable goods seized; proceedings on seizure of goods; application for remission and return of proceeds; search warrants; detention and punishment of fraud.

Mr. FLANDERS. Mr. Maddox, do you know about the relative size of the force that is now looking after the violations of the oleomargarine law as compared with what it was in former years?

Mr. MADDOX. Oh, I have not looked into that; that is an administrative matter that I do not know about.

Mr. FLANDERS. Do you know whether it is larger now than it has been heretofore?

Mr. MADDOX. I think the entire internal-revenue force is larger than it was some years ago; I am quite sure of that.

Mr. CURRIER. Is not the entire output of oleomargarine greater than it was in 1903? You were speaking about the force being greater. Is not the output of oleomargarine greater?

Mr. MADDOX. So far as I have been told. I have not looked the matter up for the purpose of answering that question.

Mr. CURRIER. The records will show.

Mr. MADDOX. Yes; and I have been told that it is much larger.

STATEMENT OF MR. T. W. TOMLINSON, OF DENVER, COLO.

The CHAIRMAN. Please state your name and the organization which you represent.

Mr. TOMLINSON. T. W. Tomlinson. I am secretary of the American National Livestock Association, and appear before this committee in support of the legislation for a modification or repeal of the present oleomargarine law.

Mr. BURLESON. And to make known the views of the members of your association with reference thereto?

Mr. TOMLINSON. Yes, sir.

Mr. BURLESON. Please go ahead in your own way.

Mr. TOMLINSON. The American National Livestock Association, as its name implies, is a national organization, and has its membership in all of the important live-stock associations of the West, from the Pacific coast to the Mississippi River. Our membership east of the Mississippi River is not of any large proportion.

That the committee may know the extent of our association membership, I file as a part of this evidence the list showing our membership. In addition to the association membership, we have also a large individual membership of prominent live-stock people throughout the West.

At the last annual meeting of our association, held in Denver, Colo., January 11, 12, and 13, there was adopted a resolution opposing the present tax on oleomargarine, and with your permission I will file as a part of my evidence that resolution. It is Resolution No. 7.

Mr. BURLESON. They have adopted a number of resolutions on this subject?

Mr. TOMLINSON. Yes, sir. Our association in previous years has also adopted resolutions on this important question, as we regard it, the action being as follows: The resolution adopted at the Third Annual Convention of the National Livestock Association, held in Fort Worth, Tex., January, 1900; another resolution adopted at the fifth annual convention of the association, held in Chicago, Ill., in December, 1901—do you wish the record to be burdened with these?

The CHAIRMAN. I think we would prefer to have you make a statement regarding them.

Mr. TOMLINSON. Of my own personal knowledge, practically all the important live-stock associations of the West have adopted similar resolutions protesting against what we regard as a most unfair and unjust class legislation. At the last meeting of the Cattle Raisers' Association of Texas, held in Fort Worth, Tex., in March, a very strong resolution protesting against this tax was adopted.

I might add in this connection that the Cattle Raisers' Association of Texas comprehends in its membership all the important live stock and cattle men of the Southwest, in the States of Texas and Oklahoma, and part of New Mexico. This subject has frequently been discussed before our executive committee, and I believe I know the views of our officers and of the members regarding this special legislation. Of course our attitude is a selfish one, as is that of most people who appear before your committee. We believe that the arbitrary or substantial modification or reduction of the tax would mean an increased value of the cattle in the United States of anywhere from 50 cents to \$1.25 a head. That necessarily is an estimate. It will depend altogether upon what, in a free and unrestricted market, the oleo fat would be worth.

Mr. HAUGEN. How much is the fat worth now?

Mr. TOMLINSON. I would hesitate to say, precisely; I think about 8 or 10 or 12 cents a pound, varying with the quality of it.

Mr. HAUGEN. How many cattle are slaughtered?

Mr. TOMLINSON. In the United States?

Mr. HAUGEN. Yes.

Mr. TOMLINSON. Including calves, about 19,000,000.

Mr. HAUGEN. And about how many pounds of fat, to be sold and to enter into consumption in oleomargarine?

Mr. TOMLINSON. It is very difficult to approximate. It depends upon the weight of the animal. Taking a steer weighing 1,500 pounds, he might have 70 or 80 pounds of butter fat.

Mr. HAUGEN. No; but the number of pounds that enter into the production of oleomargarine?

Mr. TOMLINSON. I do not know.

Mr. HAUGEN. It would be less than 35,000,000 pounds, would it not?

Mr. TOMLINSON. I do not know.

Mr. HAUGEN. We had the testimony here this morning.

Mr. TOMLINSON. I do not pretend to have exact figures on that question. It is a safe assumption, I think, that the reduction or repeal of the tax would mean close around 50 cents a head on all the cattle slaughtered in our country. At least, that is our opinion.

Mr. HAUGEN. You say there are 14,000,000 cattle slaughtered?

Mr. TOMLINSON. Near around 14,000,000. There are 19,000,000, including calves.

Mr. HAUGEN. Nineteen million?

Mr. TOMLINSON. Yes.

Mr. HAUGEN. Thirty-five million pounds at 10 cents would be how much?

Mr. TOMLINSON. At 10 cents a pound?

Mr. HAUGEN. Yes.

Mr. TOMLINSON. It would be \$3,500,000, would it not?

Mr. HAUGEN. And there are 19,000,000 cattle?

Mr. TOMLINSON. Yes.

Mr. HAUGEN. That is about one-sixth of a dollar per head?

Mr. TOMLINSON. Yes.

Mr. HAUGEN. About 16 cents a head, to be more accurate?

Mr. TOMLINSON. That is based, however, on the assumption that the tax covered the entire difference. On a free and unrestricted market, the increase in the value of the butter fat might be infinitely more than that.

Mr. HAUGEN. You are speaking about so much a head?

Mr. TOMLINSON. Yes.

Mr. HAUGEN. You have the number of head that are slaughtered?

Mr. TOMLINSON. Yes.

Mr. HAUGEN. And you have the number of pounds that enter into the production of oleomargarine, and it is an easy matter to figure out the number of pounds, and if you know the number of pounds it is an easy matter to figure it out in dollars and cents?

Mr. TOMLINSON. That eliminates entirely the factor of how much we export, which runs about \$20,000,000 a year, of oleo oil, and it also eliminates the uncertain effect——

Mr. HAUGEN. How does the 10-cent tax have anything to do with the export?

Mr. TOMLINSON. It has a very material effect, or might have, on the value of our cattle.

Mr. HAUGEN. It does not have on the oleomargarine exported?

Mr. TOMLINSON. No; I mean the oleo oil.

Mr. HAUGEN. What does that have to do with the 10-cent tax?

Mr. TOMLINSON. If the tax was removed——

Mr. HAUGEN. There would be a greater export?

Mr. TOMLINSON. No; but there would be an opportunity to use this oleo oil in this country for the home manufacture or for manufacture for exportation.

Mr. HAUGEN. That has nothing to do with the export.

Mr. HOWELL. Have you any idea how much of the oleo oil enters into other products than oleomargarine?

Mr. TOMLINSON. No, sir; I have not. I am not an expert on oleo matters or on butter matters.

Mr. HOWELL. Then, what is done with it when it is used for some other purpose than in oleomargarine?

Mr. TOMLINSON. I do not know; I do not pretend to know.

Mr. BURLESON. As I understand you, the membership of your association feel that this is an unjust, inequitable, and indefensible tax, and they are here to protest against it?

Mr. TOMLINSON. Yes; and every live-stock man in the West is a unit on that question.

Mr. BURLESON. Is there any division of opinion among the cattlemen throughout the country?

Mr. TOMLINSON. No, sir.

Mr. BURLESON. As I understand, you are the secretary of the national association?

Mr. TOMLINSON. Yes.

Mr. BURLESON. And you are acquainted with the cattlemen everywhere, where the stock amounts to anything, in this Union?

Mr. TOMLINSON. Yes.

Mr. BURLESON. How long have you been secretary of the Cattle Raisers' Association?

Mr. TOMLINSON. I have been secretary of the National Live Stock Association since June, 1905. Previous to that I was at the stock-yards at Chicago as traffic manager of the interests down there. I have been intimately acquainted, however, with the live-stock association and the cattlemen for the past fifteen years.

Mr. BURLESON. And you are in position to know the sentiment of the cattlemen upon this subject?

Mr. TOMLINSON. If you will permit me to qualify that remark, of course the dairy cows are cattle. The sentiment of the dairy people is supposed to be to wipe out the oleomargarine business, which we regard as a legitimate one. Eliminating the dairy interests, however, there is no division of sentiment among the cattlemen in the West on this proposition.

Mr. HAUGEN. When you speak of cattlemen, whom do you refer to? The farmers in general; the people that raise cattle?

Mr. TOMLINSON. Yes; farmers, range men, and feeders.

Mr. HAUGEN. Of the various States?

Mr. TOMLINSON. Yes.

Mr. HAUGEN. I want to take issue with you on that. I am sure that the cattle raisers of our State are not in favor of the repeal of this tax.

Mr. TOMLINSON. I have not made the acquaintance of any of them who are opposed to it. Our association has on its executive committee people from Iowa, who always attend our meetings and never vote against this.

Mr. COCKS. They never raise their voice against it?

Mr. TOMLINSON. No, sir.

Mr. HAUGEN. Do you mean that the farmers who raise cattle in the Western States—in Illinois, Iowa, Minnesota, and Wisconsin—are in favor of the repeal of this tax, as a general proposition?

Mr. TOMLINSON. Yes, sir.

Mr. HAUGEN. You state that as secretary of the association?

Mr. TOMLINSON. Yes, sir.

Mr. HAUGEN. Very well. I will refer you to the chairman of the committee on that.

Mr. BURLESON. He excluded the dairymen.

Mr. HAUGEN. They are cattlemen; they are cattle raisers.

Mr. TOMLINSON. There is another matter I desire to refer to in connection with the work of our association. I noticed it was referred to this morning by Mr. Jelke, and also is comprehended in one of the bills before this committee. The most serious menace to the live-stock industry is the prevalence and the increase of bovine tuberculosis. The dissemination of that disease can be largely charged to the pure-bred herds and to the present condition of the dairy herds throughout the West. Coming through Chicago I called on the secretary of the Live Stock Exchange there to ascertain some official figures as to the number of cows and steers or heifers in one class, as compared with cows that were held as suspected animals, and subsequently condemned and tanked.

This is the record I obtained and I will file, but which I first wish to refer to briefly. The Chicago Live Stock Exchange, in connection with the federal, state, and municipal authorities, inspects on the hoof all the cattle that come into the Chicago yards before they are sold. Any animals that have any clinical or visible evidence of tuberculosis or of being diseased are separated from the balance of the shipment and are held as suspect animals and are slaughtered under the jurisdiction of the federal, state, and municipal authorities. Now, during the month of October, 1909, there were 2,322 head of cattle held as suspects. Of that number 1,597 were steers and 725 were cows. Of the total number, 2,322, there were 1,949 subsequently passed as fit for food and 373 were condemned and tanked. Of that 373 there were 241 cows and 132 steers and heifers, the distinction being—a heifer is mostly spayed—between heifers or those fit for food as against cows. Of the cows held as suspects, 33 per cent were tanked as being unfit for food, and only 8 per cent of the steers were tanked. For November, 1909, 30 per cent of the cows were tanked and 4 per cent of the steers. For the month of March, 1910, there were 40 per cent of the cows and 8 per cent of the steers. For April, 1910, there were 47 per cent of the cows and 15 per cent of the steers. This is an official statement, and is a most astonishing one, when you take into consideration—

Mr. McLAUGHLIN. What conclusion do you draw from that, there being a so much larger proportion of cows having tuberculosis than steers?

Mr. TOMLINSON. I draw from it the conclusion that tuberculosis is more prevalent among them.

Mr. McLAUGHLIN. Do you take notice of the fact that cows when sent to the slaughterhouses are usually sent from the dairies, where the old ones are being taken out and a man is cleaning up his stock and retaining the more valuable animals?

Mr. TOMLINSON. To a limited extent. The receipts of cows on the Chicago market are about 25 or 30 per cent of the steers, and taken in that connection, this excessive condemnation of the cows is a most remarkable showing.

(The statement referred to by Mr. Tomlinson is here printed in the record, as follows:)

Statement compiled from the official records of the Chicago Live Stock Exchange, showing number of cattle held at the Chicago Union Stock Yards as "suspects" for the periods indicated, which were slaughtered under the auspices of the said exchange, for the purpose of enabling the state, federal, and municipal authorities to hold a post-mortem examination as to their fitness for food, and showing such post-mortem results on the steers and heifers as compared with that on cows.

Year and month.	Kind.	Number held as suspects.	Number passed as fit for food.	Number condemned and tanked.	Percentage condemned and tanked.
October, 1900.....	Steers and heifers.....	1,597	1,465	132	<i>Per cent.</i> 8
	Cows.....	725	484	241	33
	Total.....	2,322	1,949	373	16
November, 1900.....	Steers and heifers.....	970	934	36	4
	Cows.....	669	470	199	30
	Total.....	1,639	1,404	235	14
March, 1910.....	Steers and heifers.....	654	601	53	8
	Cows.....	544	327	217	40
	Total.....	1,198	928	270	23
April, 1910.....	Steers and heifers.....	928	772	156	15
	Cows.....	267	142	125	47
	Total.....	1,195	914	281	24

Certified to be correct this 6th day of May, A. D. 1910.

C. W. BAKER, *Secretary.*

I also obtained some information from a packer. I have not that information at hand in an official table.

Mr. HAUGEN. You are opposed to the use of butter as food?

Mr. TOMLINSON. No, sir; I am making this statement, and leading up to a suggestion for the consideration of your committee. I am not opposed to the use of butter; no, sir.

Mr. HAUGEN. What is the point you are referring to, about the tuberculosis?

Mr. TOMLINSON. I am getting down to that, if you will permit me. Further, I wish to finish this statement first. I obtained in Chicago a statement from one of the packers that of the total number of steers slaughtered—I can not give the number, but the percentage runs in my mind very clearly—two-tenths of 1 per cent were condemned after post-mortem. Of cows, 7 $\frac{1}{10}$ per cent were condemned. Now, the object of my reference to this subject is to impress upon the committee, if it be possible, the great prevalence of tuberculosis among the dairy herds of this country.

Mr. HOWELL. May I ask you a question there?

Mr. TOMLINSON. Yes.

Mr. HOWELL. Do your figures show whether the cows affected with tuberculosis were range cattle, or whether they came from dairies?

Mr. TOMLINSON. I can give you that in the shape of an estimate, as I talked with the secretary of the Live Stock Exchange on this particular question.

Mr. HOWELL. In the case you are citing, in the stock yards at Chicago, was there anything in the investigation to which you refer which showed whether the cows were dairy cows or range cows?

Mr. TOMLINSON. No actual record of that—of what were range cows and what were dairy cows—but range cows notoriously are practically free from tuberculosis. That is so also on the range, of steers that run in the open. The estimate of Mr. Bacon, secretary of the Live Stock Association, is that 99 per cent of the cows affected with tuberculosis come from dairies.

I refer to this as one of the correlated subjects in which our association is especially interested; that is, the stamping out of tuberculosis, and I wish to suggest to your committee that one of the most important steps that could be taken would be to place the handling and the manufacture of butter, and the distribution of butter, and the making of cheese, under some arm of the Government, so that they can ascertain with great certainty the wholesomeness of that product. The reason for that suggestion lies in this: There are a vast number of laws—34 States, for example, have passed laws—preventing the importation or the shipment into these States of cattle which have not been subjected to the tuberculin test. Those laws do not amount to very much, simply because they are not enforced. The Bureau of Animal Industry is importuned constantly by the various state governments for inspectors who will properly inspect these pure-bred and dairy cattle free, for interstate shipment, and not for slaughter; but for one reason and another the laws are practically inoperative. Now, it is the view of our committee—I am referring to our executive committee, which has discussed this thing very carefully—that the placing of stringent inspection rules, similar to the meat-inspection rules, upon the products of these dairies will promptly, in the course of a year or two, result in them cleaning up their herds.

At the last meeting of our executive committee it passed a resolution to the effect, and we have been working very zealously to that end, to prevent the exhibition at any of the state fairs and live-stock associations of any cattle, unless they are certified to be clean and free of disease. Tuberculosis, as all of you know, is a highly contagious disease. One animal can entirely infect a herd inside of two or three months. Under the present methods of handling butter and cream and milk, they run it into the separators, and take out the butter fat or the cream, and take the milk back, and feed it to the cows or pigs, and the result is that you have tuberculosis throughout that entire section of the country. It has gotten so bad in the dairy districts in Iowa that certain packers will not buy hogs from half a dozen counties where they are known to be badly infected.

Mr. HAUGEN. That is news to me.

Mr. TOMLINSON. This may not, as I understand, be entirely germane.

Mr. HAUGEN. Would you mind naming those counties?

Mr. TOMLINSON. The northeastern part of Iowa.

Mr. HAUGEN. Give me the counties.

Mr. TOMLINSON. I am not familiar enough with the State of Iowa to name the counties.

Mr. HAUGEN. Well, I am from the northeastern part of Iowa, and I know that is not so.

Mr. TOMLINSON. You go down to Mr. Cudahy, in Milwaukee, or Mr. Sinclair, of Cedar Rapids, and you can not get all the information you like from them.

Mr. HAUGEN. I know about the northeastern part of Iowa, and I know that is not a fact.

Mr. TOMLINSON. I have talked with Mr. Morrill and the Sinclair firm, and they have the State pretty badly spotted up where there is tuberculosis, and they decline to buy hogs in that neighborhood.

This, despite our jollity about it, is a very serious matter, and we so regard it. When I leave here I am going to Ottawa, Canada, for the purpose of attending an international convention of the Association for the Suppression of Bovine Tuberculosis.

Mr. McLAUGHLIN. In what respect does tuberculosis spread through a herd so rapidly?

Mr. TOMLINSON. By contact of sucking calves getting it from the milk of the cow, or by the animals rubbing their nostrils together in closed feed lots or in stalls. I am informed that a stall might be occupied by a tubercular animal and that animal be removed and another animal go in there and catch the disease. There are two or three possible different kinds of tuberculosis.

Mr. STANLEY. What character of tuberculosis is it that is the most contagious—infection of the lungs?

Mr. TOMLINSON. Yes; I think so. It is systematic or systemic. Tuberculosis affects the entire system, and is evidenced frequently by lumps on the jaw and inflammation of the udders, and in half a dozen different ways. I am not an expert veterinarian, and I can not describe properly the particular phases of it.

Mr. STANLEY. I regard this, as you said, as a very serious proposition, and one that ought to command the serious attention of all persons who regard human life in any particular industry. I think that public opinion will so regard it at some future day. What is the opportunity of infecting a human being from the use of infected milk?

Mr. TOMLINSON. Well, I think that all are agreed that the use of infected tubercular milk is likely to leave tubercular germs in the human body. In fact, I do not believe it is disputed by any veterinarian. While it might not be contracted, it is the most fruitful source of dissemination of tuberculosis.

Mr. STANLEY. I did not hear Doctor Wiley when he testified, and I do not know whether he said anything as to the probability of catching the disease from the use of infected milk.

Mr. BEALL. Let me read just one little extract which seems to bear on this point exactly. This is from Doctor Schroeder:

During 1908, according to the most reliable figures obtainable, 160,000 human lives were prematurely ended by tuberculosis in the United States alone, and this enormous number does not include the deaths hastened by tuberculosis but chargeable to other immediate causes. Every one of these deaths was due to infectious material that had its origin within and was expelled from the bodies of tuberculous persons and animals.

Mr. TOMLINSON. I do not think it is disputed in the slightest.

Mr. FLANDERS. Mr. Chairman, I would like to ask the witness a question: Are you not aware that Doctor Koch and all eminent physicians, particularly bacteriologists, of the Old World disagree on the subject you dispose of so quickly, by saying that they are all agreed,

and that at the great meeting about a year ago there was a division of opinion among the most eminent men in the world as to whether bovine tuberculosis was transmissible from the bovine to the human?

Mr. TOMLINSON. As I said a while ago, I am not a veterinarian; neither am I a physician.

Mr. FLANDERS. Neither am I, Mr. Chairman——

Mr. TOMLINSON. But I am stating what information has come to me from people in authority.

Mr. FLANDERS. Mr. Chairman, a word there. The gentleman has stated it in such form that it is going to appear in the record as positive. I want to state to this committee that the question I just asked is based upon fact. That was true.

The CHAIRMAN. That is a matter that is very familiar to this committee. If the gentleman will pardon me——

Mr. FLANDERS. Yes.

The CHAIRMAN (continuing). It has been discussed before the committee at length and on several other occasions, and I do not believe it is necessary to pursue it any further.

Mr. FLANDERS. Then I want to ask one more question. You have not any positive knowledge but what the cows that were in the slaughter yards were cows that had been weeded out of dairy herds, cows that had tuberculosis, and that were sent there to get rid of them?

Mr. TOMLINSON. Well, now, I have no actual knowledge about that.

Mr. FLANDERS. Yes.

Mr. TOMLINSON. I was at the Chicago stock yards for seven or eight years, and I know about how they handle those tuberculous cows. If there is any likelihood of their being condemned and tanked, a fellow sells them at home to some local butcher. That is a fair assumption on that, I think.

Mr. FLANDERS. That is what I wanted to get at. It is an assumption.

Mr. TOMLINSON. I do not want to be quoted as having exact knowledge on that, because I have not, but it is based on my experience of seven or eight years around the Chicago stock yards. If a dairyman has a cow that shows any visible evidence of tuberculosis, so that he thinks it is going to be tanked, he is not going to send it to the Chicago stock yards. The result is that they send in cows, probably, that are past their usefulness, and they may be aged. Very likely they are not the pick of the herd by any means.

Mr. FLANDERS. Yes.

Mr. TOMLINSON. I do not pretend that in the slightest.

Mr. FLANDERS. So far as you know, then, these may be cattle weeded out of the herds because they had a desire to send them away and get rid of them out of the herd?

Mr. TOMLINSON. Possibly.

Mr. FLANDERS. Yes.

Mr. TOMLINSON. It is so notorious that about 30 or 40 per cent of the herds from the interior districts are infected with tuberculosis that I suppose that some of them want to clean out their herds.

Mr. FLANDERS. Just a moment. You state that 30 or 40 per cent of the herds in the interior districts are infected. Where do you get that information?

Mr. TOMLINSON. From Doctor Melvin. Doctor Melvin also told me he made an inspection here in the District of Columbia a short while ago, and 20 per cent of all the cows here were infected with tuberculosis.

Mr. FLANDERS. That is in the District of Columbia; and it is 20 per cent instead of 30 or 40 per cent. Have you any other information?

Mr. TOMLINSON. The Commission for the Suppression of Bovine Tuberculosis, of which I am a member, I think has a man on it from Wisconsin, and I think he also made a statement. I do not claim any first-hand information on this subject.

The CHAIRMAN. I think we will ask Doctor Melvin to come before the committee later, and Doctor Schroeder, both of whom are expert on this whole matter of tuberculosis in cattle, and perhaps we had better not waste any more time on this now.

Mr. TOMLINSON. Yes, sir.

Mr. BEALL. Do you think it is possible that the dairy interests of this country, who are so eager to protect the country against the sale of oleomargarine for butter, would weed out tuberculous cows and send them into the market to be butchered and sold to the people for consumption as food?

Mr. TOMLINSON. That is a moral question that I hesitate to try to answer.

Mr. FLANDERS. Now, Mr. Chairman, I would like to try to ask the gentleman one more question. Do you not know that most of the States of the Union have passed laws, made provisions, and provided the machinery for examining the dairy cattle in the States for the sole purpose of weeding out tuberculosis and getting the cows affected with tuberculosis out of the dairy producing work?

Mr. TOMLINSON. Yes; I know a good many steps have been taken along that line. The State of Massachusetts, so I am informed, has done so; and it is undisputed in the records of our association.

Mr. BURLESON. But you think if butter, cheese, and milk were put under the meat-inspection law it would enable us to trace where the infection originated?

Mr. TOMLINSON. Yes, sir.

Mr. BURLESON. That it would aid in the discovery and elimination and destruction of this disease?

Mr. TOMLINSON. That is precisely what I think. I want to emphasize this point. Now, you are not going to suppress tuberculosis until you touch the pocketbooks of the men who have these diseased herds. The State of Massachusetts spent a million and a quarter in ten years trying to clean out their dairy herds. They did it in this way: The State stood most of the expense of examination of the diseased cattle. The result was that at the end of ten years they had as many diseased cattle as they started with, and they practically abandoned that method of relief. Now, if you want to force the dairy men or the pure-bred men to clean out their herds you can only do it by making it an affair of their pocketbooks. If you reach their pocketbooks, they will immediately take proper steps to pasteurize the milk of the animals they then have in their herds, and gradually weed out the tubercular animals, which will in time lead to a pure-dairy herd; and you will not do it any other way.

Mr. FLANDERS. Have you any facts that you can give this committee or state to us here that show that the bacillus of tuberculosis

has been transmitted either through the milk or through the butter or through the cheese?

Mr. TOMLINSON. No; I do not claim to have any such statistics

Mr. FLANDERS. You have not any such statistics?

Mr. TOMLINSON. No, sir.

Mr. FLANDERS. Then, as a matter of fact, you do not know anything in existing facts that would warrant any great government supervision of products of this kind that are being cared for by the State, in which there have been no results that are inimical to the human family, that you can name?

Mr. TOMLINSON. Oh, yes; there are quite a number of reasons why they should be under government supervision. Our association stands for pure meat food products. We want proper inspection. We do not object to the inspection of oleomargarine as a pure meat food product, to see that it is pure and sanitary and wholesome. Now, for the same reason, we think that the dairies should be inspected.

Mr. BURLESON. I do not think that the dairies object to that.

Mr. FLANDERS. We are inspecting them. The herds of range cattle raised on the plains, are they being tested for disease?

Mr. TOMLINSON. Take South Dakota; if any cattle are brought in there for breeding purposes, they are tested; but as to the cattle running on the open range, the prevalence of tuberculosis is a negligible quantity with them unless it comes in from the outside.

Mr. FLANDERS. That is not the proposition. You are pleading the proposition that it is not necessary because there is so little of it. But I want to know if you have made tests of the cows on the plains that you raise your steers from, and made tests of the steers, to know whether those animals are infected?

Mr. TOMLINSON. No, sir.

Mr. FLANDERS. Do you not know that the dairy herds of this country are being examined for that sole purpose, and the diseased animals weeded out, and some States provide by law that those cattle should be sent to the stock yards?

Mr. TOMLINSON. Yes, sir; I know they are exercising due efforts to suppress and decrease the prevalence of tuberculosis. I also know that it is on the increase. Now, you can prove that by any veterinarian, that despite all the efforts made by the dairy commissioners to suppress this disease in dairy herds, it is increasing; and I wish to once more emphasize the point that the only way you will ever suppress bovine tuberculosis is to hit the pocketbook of the man who has the herd.

Mr. FLANDERS. We are not here to hit anybody's pocketbook; we are here to protect the people. And I want to say to the gentleman, we have been at work on this for a great while, and we have been spending money in New York for many years, and we do not find that disease is increasing in those herds.

Mr. BURLESON. What did you spend that \$100,000 for?

Mr. FLANDERS. On all sorts of infectious and contagious diseases affecting domestic animals, running all the way from glanders in horses. We kill them and pay for the animals, in case of certain diseases.

The CHAIRMAN. We have already run over the hour when the committee desired to adjourn, and unless there is something more

that Mr. Tomlinson has to add to his statement, I believe we would like to adjourn.

Mr. TOMLINSON. No, sir; I have nothing more. I perhaps ought to ask the pardon of the committee for lugging in a subject that is not perhaps entirely germane; but it is most important, and I suggest that it receive the consideration of the committee.

Mr. McCARTHY. Before we adjourn, Mr. Chairman, I would like to call to your mind again that, according to the original agreement, this was the last day that the oleomargarine side was to have had, but that of the three days originally allotted to us we lost two half days because of calls in the House, or for some other good reason. At the time you made the original allotment of the dates, we cut down our list of witnesses just as much as we possibly could. The result now is that we have a number of very important witnesses on points in connection with this matter, whom we would like to have the committee hear if they can grant us the time which was originally given to us, and which was lost by us.

(Further informal discussion followed between parties present and the committee, as to allotment of time for future hearings.)

The CHAIRMAN. Then let it be understood that we will meet at 10.30 o'clock to-morrow morning, and that the oleomargarine people shall have to-morrow and that the other side shall then take the next three days, if they need it, and we will close with a half a day apiece, as originally understood.

Mr. McCARTHY. In this settlement of the case whereby some of our out-of-town witnesses would be obliged to file their statements in written form, it is barely possible we may be able to finish on our side in the morning to-morrow with the witnesses we have here in Washington.

The CHAIRMAN. The sooner you finish up, the better the committee will be satisfied.

Mr. McCARTHY. I say that so that the other side may be prepared to go on in the afternoon, if we do finish in the morning.

(At 4.35 o'clock p. m. the committee adjourned.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Thursday, May 12, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. The committee will come to order.

**STATEMENT OF DR. E. C. SCHROEDER, SUPERINTENDENT,
EXPERIMENT STATION, UNITED STATES BUREAU OF ANIMAL
INDUSTRY.**

Mr. BURLESON. State your profession, and state whether you have in the past been conducting any experiments with bovine tuberculosis and the probable danger of the human family being inoculated with the disease of tuberculosis from the cow.

Doctor SCHROEDER. My profession is that of a veterinarian, but since the year 1887 I have been engaged in experimental medicine. I

have given a great deal of attention to that class of diseases which are transmissible from animals to man. The first work I did on tuberculosis was in the year 1887. Prior to the time of the large controversy which arose as to whether bovine tuberculosis was a source of danger to man, I had made quite a number of investigations as to the frequency with which tubercle bacilli occurred in milk.

When the controversy, which Dr. Robert Koch, of Berlin, started, began in the year 1901, there were a large number of investigations undertaken by the Agricultural Department to determine specifically whether Doctor Koch was right in his conclusions or not. I was very, very intimately interested in these investigations and conducted the larger proportion of the practical part of them. Since the time that Doctor Koch made his assertion, in the year 1901, I have continuously given attention to the relationship between bovine tuberculosis and public health.

The controversy that Doctor Koch originated was based on a discovery made in the United States by Dr. Theobald Smith, who is at present a professor at Harvard University. Theobald Smith for a number of years was an employee of the United States Bureau of Animal Industry, and I was very well acquainted with him, because I served as his assistant. The discovery Theobald Smith made is that the tubercle bacilli that are commonly found in tubercular lesions of cattle are not precisely like those that are commonly found in the tubercular lesions of human beings.

Dr. Robert Koch used this discovery made by Doctor Smith, together with some attempts to infect cattle with tubercle bacilli from the human source, as the sole basis for his conclusion that bovine tubercle bacilli are not dangerous to human beings. It is a class of evidence which in science generally would not be considered as sufficient, but, of course, a man of the authority of Doctor Koch made it absolutely necessary that his assertion should be proven or disproven. And for that reason there was a commission appointed in Germany, known as the German imperial commission, another commission appointed in England, known as the British royal commission on human and animal tuberculosis, and in the United States the entire question was gone into very thoroughly by the Department of Agriculture, through the Bureau of Animal Industry. The investigators who took up this matter were Dr. De Schweinitz, who is now dead, Doctor Dorset, now chief of the Biochemic Division of the Bureau of Animal Industry, and myself. The conclusions reached by the two European commissions and those reached in the United States are very much alike, namely, that bovine tubercle bacilli can frequently be found in the tuberculous lesions of human beings. The condition made by Doctor Koch, if we wanted to disprove his contention, was that we would have to show that bovine tubercle bacilli could be separated from the human tubercular lesions, and for that reason we gave a great deal of attention to separating tubercle bacilli from human lesions and determining whether their character was bovine or human.

We found that bovine tubercle bacilli occurred with a fair degree of frequency in the tuberculous lesions of children. However, we were not entirely satisfied, so another long series of investigations was undertaken by the Bureau of Animal Industry to determine whether tubercle bacilli could possibly be transformed, under certain

conditions, from one type to the other; that is, from the human type to the bovine, or from the bovine to the human. These investigations, in which I was only distantly interested, were made by Doctors Mohler and Washburne, the chief and the assistant chief of the Division of Pathology. After a very extensive series of investigations the conclusion drawn by Doctors Mohler and Washburne is that there is no characteristic in which tubercle bacilli are more variable than in their virulence and morphology or type. That means, of course, that if we found human types of tubercle bacilli in human lesions that we could not conclude definitely that the original source of infection was not bovine, because the possibility existed that the bacilli might have been transformed in human tissues from the bovine type to the human type.

A great deal of opposition has been brought to bear against the conclusions of Doctors Mohler and Washburne, and I have been particularly interested in analyzing some of the opposition, and I find that it comes largely from men who, in the place of having conducted long-continued investigations, like those of Mohler and Washburne, on the transformation of the bacilli, have done comparatively a limited amount of work, an amount of work which extends over a short period of time. The work of Mohler and Washburne extended over a good many years, and was done in such a way that the tubercle bacilli, if they can be transformed, should really have an opportunity to be transformed.

Doctor Koch made another assertion which has been, I believe, disproved now, and that was if we wanted to show definitely that tuberculosis commonly arose from a bovine source it would have to come from materials that were taken into the intestinal canal; hence, he said, if the bovine source of tuberculosis is the common source of infection among human beings we must have lesions in the intestinal canal or associated with the intestinal canal in order to show that the bacilli penetrated into the body in that way. At first it was believed that bacilli very rarely penetrated that way; but a more careful search led the English royal commission and the German imperial commission to conclude that among children tuberculosis of the intestinal region is a fairly common occurrence. They further conclude, in that connection, that when these cases of tuberculosis are examined they find that a large proportion is associated with bovine tubercle bacilli.

The CHAIRMAN. May I interrupt you right there to ask this question? In the cases to which you have just referred, in which the infection appeared in the intestinal organs, did it remain there or was it transferred to the lungs?

Doctor SCHROEDER. In the cases that were handled by the European commissions the disease did not remain strictly confined to the intestines, but the lesions, and the oldest lesions of tuberculosis were found associated with the intestines, and lesions were also found elsewhere, because these children before they came to autopsy had become infected, in a majority of the cases, with more or less generalized tuberculosis, and the lungs were involved, I believe, in many instances.

The CHAIRMAN. Why is it in most cases, so far as the layman knows, the lungs are the only organs affected by the tubercle bacilli?

Doctor SCHROEDER. That is a question to which I have given

attention. A theory was long maintained that tuberculosis is most commonly a disease of the pulmonary tissues, because infection occurs most commonly by breathing air contaminated with tubercle bacilli directly into the lung. But I thought of the various physical objections to the inspiration of tubercle bacilli into those portions of the lungs where tuberculosis most commonly begins, and I made up my mind it was an impossibility. For example, in order for bacilli to get to those regions of the lungs where tuberculosis most commonly begins—that is, into the apices or the upper portions—they must remain suspended in the air during its passage through a long series of moist wall tubes. Now, it is a physical law that when particles of higher specific gravity are suspended in a fluid of lower specific gravity and the fluid suspending these particles is forced through tortuous channels, that with every turn the particles of higher specific gravity will move somewhat more peripherally than the lighter fluid, and the result will be that at every turn, when air suspends the solid particles, the particles will be thrown with considerable force against the moist wall of the tubes and adhere there.

The surfaces of the respiratory tract, against which these solid particles would be thrown, are covered with what is known as ciliated epithelium, a layer of tissue which has at its top a number of minute projecting processes which undergo a lashing motion; this lashing motion is of a kind which will move any solid particle that is deposited on the surfaces of the respiratory tract outward and not inward. It seems to me that this fact relative to the movement of particles of higher specific gravity in a fluid of lower specific gravity, and the tendency of the ciliated epithelium on the larger respiratory surfaces to move substances deposited on them outward make it physically impossible for infectious material to be inhaled into the finer tubes of the lungs. It was also proven—this work was not done in America—that tuberculosis when it occurs in the lungs commonly spreads, not from the finer air tubes or from the air cells, but from the minute capillary blood vessels in the lungs. In order to see whether it was possible to cause tuberculosis of the lungs by entering the infection into remote portions of the body, I made a series of experiments at the station at Bethesda.

One was to inject infected material directly into the circulation. I found that such infectious material was almost invariably entirely filtered out from the lungs, in which the capillary circulation of the body is finest and most tortuous. When I found how easily all materials were filtered out in the lungs, if injected into the blood, I made up my mind to inject some animals in remote portions of the body, to see what would happen. I took a number of calves and pigs and injected bacilli into the tip ends of their tails; that was as far as I could get away from the lungs. After awhile I killed those animals and I found that the most marked lesions of tuberculosis were located in the lungs, and not only were they located in the lungs, but there was no chain of lesions between the point of injection and the lungs to show just what path the bacilli had taken from the tip of the tails to the lungs.

It was proven by one of our American investigators, one of our most prominent investigators on tuberculosis, by the name of Ravenel, that when tubercle bacilli are introduced into the intestinal canal they can be detected a few hours later in what is known as the great tho-

racic lymph duct; the bacilli evidently passed through the wall of the intestines and were taken up by the small terminal end of the lymphatics associated with the intestines and gradually passed along through the lymph circulation until they got to the great thoracic lymph duct, which empties directly into the venous circulation. Through the blood, in the venous circulation, the bacilli would be carried to the heart, from the heart, through the pulmonary arteries, they would be pumped directly to the lungs and be filtered out there. Consequently, I concluded from my experiments that the bacilli that had been injected into the tip ends of the tails of animals were probably taken up by what is known as the lymphatic system, through it reached the great thoracic lymph duct, then the circulation, and then, through the pulmonary arteries, were pumped into the lungs and there filtered out.

The CHAIRMAN. How long a period elapsed between the injection and your finding of the lesions in the lungs?

Doctor SCHROEDER. Possibly a period of three months. There has been a number of experiments, however, where bacilli were recovered from the lungs very shortly after they had been introduced into the digestive canal. In the investigation I referred to, made by Ravenel, the bacilli were found in the great thoracic duct only a few hours after they had been introduced into the intestines.

Experiments made by two investigators in Germany, Schlossman and Engle, I think their names were, showed that tubercle bacilli that were introduced through a tube into the stomachs of the guinea pigs—they used the tube to prevent any tubercle bacilli being deposited in the upper portions of the air passages—were actually found in the lungs only a few hours afterwards.

The CHAIRMAN. It is, then, your opinion, that the tubercle bacilli are oftener found in the lungs merely because it is there that they first encounter the capillary system?

Doctor SCHROEDER. That is my idea; that is my opinion.

The CHAIRMAN. After leaving the heart?

Doctor SCHROEDER. Yes.

Mr. STANLEY. Tuberculosis is practically the same disease no matter what organ is attacked?

Doctor SCHROEDER. Tuberculosis is the same disease no matter what organ is attacked.

Mr. STANLEY. The same bacilli?

Doctor SCHROEDER. The same bacilli; yes.

Mr. STANLEY. I am more interested in this phase than any other. What animal was it you took this serum or bacillus from, this infected serum?

Doctor SCHROEDER. That I injected into the tails?

Mr. STANLEY. Yes.

Doctor SCHROEDER. The bacillus was originally derived from a bovine source, but it had been grown for a number of generations artificially in culture tubes.

Mr. STANLEY. Was the bacillus obtained from the same kind of an animal in which you injected the bacillus?

Doctor SCHROEDER. We obtained the bacillus, in this instance, from an adult cow, and we injected it on the one hand into hogs, and on the other hand into calves; the calves, of course, would be the same species.

Mr. STANLEY. It is contended that this deadly bacillus can not be communicated from a quadruped into the human species.

Doctor SCHROEDER. I said a few moments ago that Doctor Koch, who originated the controversy relative to the difference between human and bovine tuberculosis, asserted that if we can show that tubercle bacilli, of the type which occur commonly in cattle, can be found in the lesions of man that we have conclusive and absolutely irrefutable proof that the source of infection for the human being was bovine. In New York there have recently been made a number of investigations based on what Doctor Koch demanded. These investigations were made by one of the most eminent bacteriologists in America, Dr. William H. Parke, assisted by his associates, Doctors Krumweide, Anthony, and Grund.

These men, after doing what I consider an enormous amount of work, actually isolated tubercle bacilli from something over 400 cases of human tuberculosis. I have the percentages in connection with this work very well in my mind, although I have not the exact numbers. The remarkable thing found by Parke and his associates was that among a certain number of fatal cases of tuberculosis among infants 10 per cent, according to the standard specified by Dr. Robert Koch, were due to bovine sources of infection; among a certain number of cases tuberculosis among children under 5 years old, not all of which were fatal, however, something in the neighborhood of 26 per cent were due to the bovine source. Their tests were made according to what Doctor Koch demanded and under the conditions which, if carefully observed, he said would make the proof unimpeachable. Among children between 16 years and 5 years old Parke and his associates found that about 16 per cent of all tuberculosis was due to the bovine source; over 16 years of age Parke found only a single case of tuberculosis due to the bovine source.

It is somewhat surprising that tuberculosis due to the bovine source should be so extremely common among children under 16 years of age and more common in children under 5 years of age. I presume a reason for this is that children to a great extent stop drinking milk at about 5 years of age, although some drink it until they reach the age of 16 years. Bovine type of tubercle bacilli are extremely uncommon after the sixteenth year has been passed. But when we take this in connection with the work of Mohler and Washburne, in Washington here, and a man by the name of Eber, of Leipzig, in Europe, and some of the observations made by the British Royal Commission in Great Britain, the work as to the transformability of one type of bacillus into another type of bacillus begins to look very ominous, and when we think of that in connection with the other thing the enormous frequency with which the human race is found, on autopsy and on tubercular tests, to be infected with tuberculosis, it is even more ominous.

I read the other day that an investigator of some prominence in Vienna made tests as to the frequency of tuberculosis among children. The tests he made were what are known as the cutaneous and subcutaneous tuberculin tests. In the human species the subcutaneous test is not as commonly used as among cattle, because there is a belief that the injection of tuberculin under the skin of an individual already infected with tuberculosis might accelerate the course of the disease; for that reason they have tried to get some other test, in which tuberculin is also used. The cutaneous test has been found to be delicate and reliable. The investigator in Vienna, Hamburger by

name, applied the cutaneous tests first, and where no reaction was obtained, afterwards applied the subcutaneous test. He found that, in Vienna, by the time children had reached from 11 to 12 years of age 94 per cent were already infected. Of course, when we think of this amazingly high percentage we must bear in mind that tuberculosis is a disease which very frequently heals spontaneously, and that the simple occurrence of tuberculosis in the human individual does not mean at all that that individual will die of tuberculosis. The figures given by this European investigator of whom I have just spoken are very well borne out by the autopsy records made in various portions of Europe, autopsy records based upon post-mortem examinations of the cadavers of all human beings as they could be obtained, irrespective of the disease that had caused death.

Now, among such autopsy records we have the records of a man by the name of Nogali, a very prominent European pathologist, and he asserted, after he had made several hundred autopsies, that practically 96 per cent of all human cadavers show lesions of tuberculosis. He was attacked for making this assertion, and in order to prove his earlier figures he made a number of additional autopsies, and then came back with the conclusion that he had no reason to change his former views, except he wanted to add 1 per cent to the 96 per cent which he had formerly expressed. Of course, some of the tubercular lesions found were not very marked or extensive, nevertheless they were tubercular lesions; they showed that the individual had actually, at some time, swallowed tubercle bacilli under conditions which made it possible for them to cause the lesions, and those lesions persisted until the individual died and came to autopsy, and then were sufficiently marked so that from a pathological and bacteriological examination they could be determined to be true tubercular lesions.

MR. STANLEY. Has there been any attempt made to solve this riddle, to infect the bovine species with tubercular bacilli from the human being?

DOCTOR SCHROEDER. Attempts to infect cattle with tubercle bacilli obtained from man were made by the British royal commission, by the German imperial commission, by the Agricultural Department investigators here in Washington, Parke in New York, and, in fact, by quite a number of investigators; attempts of that kind have grown to be quite numerous, and it has been found by all of these investigators that when tubercle bacilli of the bovine type are obtained from human lesions and injected into cattle they cause tuberculosis in the cattle.

THE CHAIRMAN. What has been the result when bacilli of the human type has been injected? I understood you to say in answer to Mr. Stanley that in every case in which tubercle bacilli of the bovine type, taken from human beings, had been injected into the animals, infection has resulted?

DOCTOR SCHROEDER. That was my answer.

THE CHAIRMAN. I supposed you were drawing the distinction between bacilli of the bovine type and bacilli of the distinctly human type.

DOCTOR SCHROEDER. I was drawing that distinction.

THE CHAIRMAN. I would like to ask what the result has been from experiments with bacilli of the human type.

Doctor SCHROEDER. When we derive bacilli of the human type from human lesions we find they cause a nonprogressive tuberculosis in cattle.

Mr. STANLEY. Do you mean you find a different type of tubercle bacilli?

Doctor SCHROEDER. In both instances I am speaking of tubercle bacilli derived from human tuberculosis.

Mr. STANLEY. But there are two distinct types, and the types are sufficiently distinct to be easily recognized?

Doctor SCHROEDER. When you take the extremes they are easily recognized. There is one peculiarity about the type of these bacilli, that is the so-called extreme human type is very different from the so-called extreme bovine type, but when we examine all the types of bacilli we find a chain of forms that ranges all the way from the extreme human to the extreme bovine.

The CHAIRMAN. That is, with a shadowy dividing line?

Doctor SCHROEDER. Yes, sir. As an example, I might give what happened to the British royal commission. They seemingly started out with a view of grouping all the tubercle bacilli they obtained from persons and animals into classes, bovine and human; well, they very soon found the two classes were not sufficient and they had to make three classes; that is, bovine, human, and intermediate. When they multiplied the test by which the different types are distinguished they found they had to increase the number of classes, until they finally ended up with, I think, six or seven different classes of bacilli, to which tuberculosis among mammals is to be attributed. There is no absolute distinction excepting we take the end types, and, of course, if the one type is transformable into the other we would expect that we would find intermediate or transition types or forms, and we have those intermediate types or forms. There is a peculiarity about the types, and that is that the more closely the bovine type is approached the higher the virulence of the bacilli seems to be for all species of animals that have been tested. And when I speak of the species of the animals that have been tested as to the virulence of the types of bacilli, the anthropoid apes, the man-like apes, were included in the test made in Great Britain, and those apes, as well as other forms of apes, and monkeys, and all other animals, Guinea pigs, rabbits, hogs, and so forth, are more susceptible to the so-called bovine than to the so-called human types of bacilli.

Mr. STANLEY. Is there any material difference between the physical status and structure of a high-class ape and a human being, looking at it simply as an animal?

Doctor SCHROEDER. Well, there are quite material differences, to be sure.

Mr. STANLEY. I do not mean the structure of the head and brain, and all that. I mean in the structure of their muscles and their susceptibility to disease.

Doctor SCHROEDER. There is quite a difference, because a man has two hands and two feet, for example, and even the higher class of apes have, distinctly speaking, four hands; we look at the lower extremities of the apes and examine the structure of them and we can not call them feet at all. We find that the arrangement of the thumb is so distinct.

Mr. STANLEY. I am not speaking of this technical difference. I am speaking now of their susceptibility to disease, the structure of the heart, the viscera, and things of that sort. Are they not subject, in captivity, to practically the same diseases as human beings? The reason I ask that question is this, if the bacilli would affect the anthropoid apes in the lungs, for instance, would it not be practically conclusive that it would affect a human being in the lungs and in the circulatory system, and in that part of the body? Is there any difference between the structure of one of those animals and the structure of a man?

Doctor SCHROEDER. From the physical point of view I should say there is not, but when it comes to the susceptibility of the anthropoid apes and man to different diseases that is a subject on which I am not in a position to express any opinion except so far as tuberculosis is concerned, and so far as these animals have been tested with tubercle bacilli and a record has been made of the tests, they respond to them as man does.

The CHAIRMAN. The point of Mr. Stanley's question I take to be this: Do pathologists regard experiments upon anthropoid apes as of greater value in relation to diseases of man than they would similar experiments upon guinea pigs or calves or any of the other lower animals?

Doctor SCHROEDER. Yes; I should regard them as of greater value, because the more nearly the animal on which the experiment is made approaches man the more reliable the results obtained will be.

The CHAIRMAN. Now, coming back to the variations and resemblance between the human and the bovine bacilli. I presume the whole point of all these investigations depends upon the distinction between them?

Doctor SCHROEDER. It does.

The CHAIRMAN. And I would like to have you state whether you think there remains any doubt whatever that true bovine bacilli, bacilli which could not have had their origin exclusively in the human organism, have been discovered in the human being?

Doctor SCHROEDER. True bovine tubercle bacilli, which could not have had their origin anywhere except in cattle, have been discovered in human tuberculous lesions. I do not believe that even Dr. Robert Koch would deny that to-day; in fact, I am sure he would not. Dr. Theobald Smith, the man who discovered the difference between the types of bacilli, does not deny it; he admits it; he admits he has found such bacilli in human tubercular lesions and has said specifically they could have been derived from no other source but cattle.

Mr. STANLEY. You spoke of the virulence of the bovine tubercular bacilli. You mean its rapid spread after the lesion is formed and the celerity with which it produces death?

Doctor SCHROEDER. Yes.

Mr. JELKE. Doctor, if a child under 16 years of age is infected with tuberculosis of the bovine type and it persists in its system until the child becomes a man, say, 21 years of age, would that tuberculosis become transformed into the human type?

Doctor SCHROEDER. It is my belief at the present time that it would.

Mr. MCCARTHY. In a paper by you in the Twenty-fifth Annual Report of the Bureau of Animal Industry I find this extract:

When we actually realize the truth about tuberculosis and the number of victims that it claims we are in a better state of mind to join those who may be classed as afflicted with phthisiophobia than those who seek to belittle the dangerous character of tuberculous individuals for their fellow-creatures. During 1908, according to the most reliable figures obtainable, 160,000 human lives were prematurely ended by tuberculosis in the United States alone, and this enormous number does not include the deaths hastened by tuberculosis but chargeable to other immediate causes. Every one of these deaths was due to infectious material that had its origin within and was expelled from the bodies of tuberculous persons and animals.

The question I would like to ask you is whether you are in a position to form an estimate of the number of those deaths which derived their source from animals?

Doctor SCHROEDER. No, I am not; I am not in a position to form an estimate of that at all. If we would base an estimate on the frequency with which bovine bacilli are actually found in human tuberculous lesions we would have to say that approximately 3 per cent of the total deaths from tuberculosis were due to a bovine source. If we admit, or if we accept the work that has been done on the transformability of bacilli, it would be very much more likely we would have in the neighborhood of about, I should say, 15 per cent.

Mr. McCARTHY. You are pretty sure of 3 per cent, and there may be quite a number more?

Doctor SCHROEDER. We are certain of 3 per cent, and the strongest probability points to at least five times that many.

Mr. McCARTHY. According to your figures here, then, you are pretty sure that at least 4,800 of these deaths in the United States were due to bovine tuberculosis?

Doctor SCHROEDER. I am absolutely certain of that.

Mr. McCARTHY. The next question I would like to ask you is: What do you think is the most common means for transforming the bovine bacillus into human beings, through what product?

Doctor SCHROEDER. That I can not answer.

Mr. McCARTHY. Is it milk or butter or meat?

Doctor SCHROEDER. You say "transforming." I do not believe I understand your question.

Mr. McCARTHY. Transmitting it, I should say.

Doctor SCHROEDER. Introducing the bacilli into the human body?

Mr. McCARTHY. Yes.

Doctor SCHROEDER. I find, from my own examinations, that tubercle bacilli are very common in milk. For example, in the city of Washington tests were made for bacilli in milk by the hygienic laboratory of the Public Health and Marine-Hospital Service by Doctor Mohler, of our Division of Pathology, and by myself. These examinations taken together show that at the time they were made one sample of milk out of every 18 in Washington contained actual living tubercle bacilli. Bacilli also occur in butter, but the question of bacilli in butter is one that has not received sufficient attention for us to say anything much about it. If we take the question of tubercle bacilli in milk when cream is separated from it into consideration, we have to conclude on the basis of abstract reasoning that tubercle bacilli are more common in butter than in milk.

The CHAIRMAN. Why?

Doctor SCHROEDER. Because cream constitutes only a small portion, a relatively small portion of milk, and for some reason or other tubercle bacilli adhere with such tenacity to the cream globules that when

cream is separated from milk the number of tubercle bacilli relative to the mass of the cream, if the cream is taken from infected milk, will be very much greater than the number of tubercle bacilli relative to the mass of the milk from which the cream was obtained. When we put milk into a centrifugal machine to separate the cream from it, we get three layers; we get an intermediate layer of skimmed milk, a layer of cream on top, and a layer of sediment in the bottom, and all the bacilli are concentrated in the sediment and in the cream, and the estimates which have been made—not by myself, however—seem to indicate that about 60 per cent of all the bacilli in a given sample of milk are concentrated in the cream.

In making investigations myself I have repeatedly made butter from infected cream, and I found that when the cream was infected the bacilli were transferred to the butter.

The CHAIRMAN. Did you ever make any experiments with cheese?

Doctor SCHROEDER. No, none whatsoever.

The CHAIRMAN. Have any been made that you know of?

Doctor SCHROEDER. Quite a number have been made, yes, and the investigations show conclusively that when cheese is made from infected milk the cheese will also contain infection.

Mr. STANLEY. Are the typhoid germs or bacilli equally as transmissible through milk as the tubercle bacilli?

Doctor SCHROEDER. If the typhoid germs get into milk their presence there is more dangerous than the presence of the tubercle bacilli.

Mr. STANLEY. The reason I ask that question is I had a personal experience in the city of Henderson, where I knew where the milk came from, a most reliable source, and almost without exception every child, my child among them, that was using this milk had typhoid fever; there was hardly a child that escaped among those who were taking milk from this man. I knew him very well, and I called it to his attention; he discovered that his cows were drinking water from a pool that was found to be infected with the germs.

Doctor SCHROEDER. I am very much in doubt personally whether typhoid germs swallowed by a cow would be passed from her body with the milk. The reason I doubt that is I have participated in investigations, made by Doctor Rosenau, of the Hygienic Laboratory, in which we put a cow into a stall under such conditions that anything which reached her from before could not get behind her, and we fed that cow quite a lot of typhoid germs, but upon examination we could not find any of the typhoid germs in her feces, urine, or milk. However, if a cow has access to a pool that is contaminated with typhoid germs it is a very simple and easy matter for some of the germs to get on her body in such a way that they may drop into the milk pail, and one great danger about typhoid germs is that when they get into the milk they get into an excellent culture medium; they can grow very profusely, and what is even worse than that is the fact that they may multiply rapidly and yet not change the milk so markedly that its character would attract much attention. And milk has been proven here in Washington, by the work of the Hygienic Laboratory, to be quite a common carrier of typhoid bacilli. In fact, in the last report issued on this subject, after a prolonged and very searching investigation by the Hygienic Laboratory, it is shown that 10 per cent of all the cases of typhoid fever in the District of Columbia are directly traceable to infection through milk.

Mr. STANLEY. The cases I referred to a moment ago occurred in the summer time, and the cows were in the habit of going into the pool to keep the flies off, I suppose.

Doctor SCHROEDER. You see there is great danger of the typhoid germs dropping into the milk pail, and that the milk may become completely charged with typhoid germs.

Mr. LEVER. Is milk a carrier of any other disease than tuberculosis and typhoid fever?

Doctor SCHROEDER. I believe they are having a great time in Boston at the present, because of an extensive epidemic of scarlet fever, directly traceable to the milk supply.

Mr. LEVER. Would milk carry meningitis, for instance?

Doctor SCHROEDER. That I do not know; I can not say. But milk has been proven to carry a number of diseases; it has been proven to be the cause of quite a number of epidemics of diphtheria, of scarlet fever, sore throat, and of a number of other diseases; they have been traced directly to infected milk.

The CHAIRMAN. Are these germs of tuberculosis, typhoid fever, and scarlet fever destroyed by the pasteurization of milk and cream?

Doctor SCHROEDER. They are. I have made quite a number of experiments relative to the efficiency of pasteurization; I made one experiment quite recently. I might say this, that among the disease germs that are more commonly found in milk, like the typhoid germ and the tubercle germ, the tubercle germ is, if anything, a little more difficult to kill than some of the others, by applying heat to it. Now, I had a cow at the experiment station at Bethesda. She happened to be infected with tuberculosis of the udder. I wanted to use some of her milk in a special investigation. The investigation was not made specifically to prove anything about pastuerization; I wanted to get milk naturally infected with tubercle bacilli which would be as nearly in a normal, fresh condition as possible and in which the tubercle germs were dead. So I made up my mind the only thing to do was to pasteurize that milk. I divided the milk each day for thirty successive days into two lots. The one lot I injected into guinea pigs in its raw, fresh, unpasteurized condition; the other lot I had pasteurized at a temperature of 140° Fahrenheit, which is 72° below the boiling point of water, for a period of twenty minutes.

The milk was simply put into ordinary glass bottles, absorbent-cotton stoppers put into the bottles, and then the bottles immersed in hot water, with a thermometer in the milk itself, and kept there until it showed 140° F.; then the hot water was cooled on the outside of the bottles sufficiently to prevent the temperature of the milk rising higher than 140 degrees; that temperature was maintained for twenty minutes, and at the end of the twenty minutes the bottles were rapidly cooled by letting cold water run around them. That pasteurized milk was injected into guinea pigs. Now, among the guinea pigs into which the milk was injected in its raw state, more than 100 of that kind, 98 per cent contracted tuberculosis, showing it was very infectious milk. Among more than 100 guinea pigs, into which the milk was injected after it had been pasteurized as I have described, not one, on autopsy, when they were finally killed, showed a single lesion of any kind of disease. I present this as an example of the efficiency of pasteurization, and it must be very conclusive.

Mr. HAUGEN. The milk that is used in making butter is pasteurized, as well as in the making of oleomargarine, is it not?

Doctor SCHROEDER. I have no personal experience as to that; I understand that good butter can be made from pasteurized milk.

Mr. HAUGEN. Is it not quite general now?

Doctor SCHROEDER. That I do not know; I can not answer that.

Mr. HAUGEN. I think it is. Well, where cream, butter, and milk are infected and they are used in the manufacture of oleomargarine, would not the results be the same as if used in the manufacture of butter?

Doctor SCHROEDER. That would be so. If you used an infected article of any kind in the manufacture of any other article you would transfer the infection of the other article. As long as raw milk, raw cream, and raw butter, and so forth, are used in the manufacture of oleomargarine there is the danger that the oleomargarine will be contaminated.

Mr. HAUGEN. Is there not just as much danger of human beings becoming infected through the use of oleomargarine as there is through the use of butter, if this infected butter, and so forth, is used in the manufacture of oleomargarine?

Doctor SCHROEDER. Yes; the infection would be a little more diluted in the oleomargarine, I should imagine.

The CHAIRMAN. Have you ever examined oleomargarine with the view of determining the presence of tubercle bacilli?

Doctor SCHROEDER. I have never examined oleomargarine. I have made a good many butter examinations. There have been a number of examinations made in Europe. I took the trouble about two weeks ago to tabulate the results, both of the butter examinations and of the oleomargarine examinations made in Europe. The remarkable thing is that in Europe they found 15.3 per cent of all the butter samples examined to be infected with tubercle bacilli and 15.1 per cent of all the oleomargarine infected; so they come very close together.

Mr. LEVER. Do you think the human race stands in enough danger of having this disease carried to it through milk, butter, oleomargarine, and butter products of all descriptions to warrant legislation to enforce the pasteurization of milk?

Doctor SCHROEDER. I certainly do.

Mr. STANLEY. If this manufacturing of butter was placed under the same restrictions that are now thrown about the handling of meats—in other words, under the pure-food law—would that have a tendency to secure the protection and conservation of human life?

Doctor SCHROEDER. I believe it would lead to the conservation of human life; yes.

Mr. HAUGEN. Would not the proper thing be the examination of the herds, and would not that be a most expensive thing?

Doctor SCHROEDER. If you examined the herds, you would have to eliminate the animals that reacted, and I do not believe for the entire country that is immediately economically possible.

The CHAIRMAN. Is it not true that a tuberculous cow may give milk that is entirely free from the tubercle bacilli, and is it not the case that the bacilli that appear in the milk come from outside rather than from the milk itself?

Doctor SCHROEDER. Yes; the tubercle bacilli that appear in the milk, according to the investigations we have made, more commonly

come from the environment of the cow than directly from the milk-secreting glands. .

The CHAIRMAN. It would follow, therefore, that a cow not affected in the least degree with tuberculosis herself might yet furnish milk that would be infected with the tubercle bacilli by reason of her surroundings?

Doctor SCHROEDER. Very true.

The CHAIRMAN. So that the only satisfactory test that could be followed to insure wholesome milk would be to compel its pasteurization before use?

Doctor SCHROEDER. I see no other immediate solution. I believe we should make some great effort to eradicate bovine tuberculosis, because I think that that to-day is one of the most serious problems relative to the conservation of the food supply the country has to deal with.

Mr. LAMB. Is not the inspection, both of the cattle and the dairies, going on in all of the States through state legislation and through municipal enactment? It is in my State.

Doctor SCHROEDER. I do not know that the inspection that is going on is sufficient. There is a good deal of inspection going on, and I do not believe it is sufficiently thorough to do a large amount of good; and, besides, it is not universal.

Mr. HAUGEN. Would it be practicable and possible to inspect all the butter that is made?

Doctor SCHROEDER. That I can not say.

Mr. HAUGEN. Would it not be an absolute physical impossibility to do that? For instance, in our State we have nearly 500 creameries; we had nearly a thousand, but now the number is reduced to about 600. There are thousands of creameries all over the country and there are farmers manufacturing butter. Inspectors would have to be placed at each creamery, and not only there but at the various farms. You have spoken about the meat inspection. We make a permanent appropriation of \$3,000,000 for the inspection of these few packing houses; they are small in number as compared with the creameries. Some of the counties in some of these States have as many creameries as we have packing houses in the United States, and the expense for the inspection of those packing houses is \$3,000,000. Where are you going to get your inspectors, competent inspectors, to inspect all the creameries in the manufacture of all the butter?

Doctor SCHROEDER. That is a matter on which I am not able to express an opinion at all.

Mr. STANLEY. Is it true, Doctor, that a stalled cow, which is kept in these large dairies, especially near the cities, and which does not range as a country cow does, is more subject to tuberculosis, both from her environment and from her manner of life, than the cow in the country?

Doctor SCHROEDER. I do not know whether she is more subject to tuberculosis, but tuberculosis occurs in that kind of cattle more frequently; probably it is directly because of her close contact with other animals that are infected and because the infection has a greater opportunity to spread.

Mr. STANLEY. And grows out of the fact that she is deprived of light and the open air, which is the great preventive and cure of tuberculosis in all animals.

Doctor SCHROEDER. Well, I do not know that I would want to answer that question as to animals. I think we have recently come to the point where we are receding a little as to the efficiency of the fresh air unaided by other well-directed treatment as an absolutely reliable method of curing tuberculosis. There is another thing we ought to bear in mind about tuberculosis when we speak of being cured, and that is, an absolute cure from tuberculosis does not occur; a so-called cured case of tuberculosis should be referred to as a case of arrested tuberculosis. There is a difference between cured and arrested. The curing of tuberculosis would mean that the tubercle bacilli had been absolutely eliminated from the body; a case of arrested tuberculosis may at any time become a case of active tuberculosis.

The CHAIRMAN. Now, coming back to the milk. I believe it is generally understood that milk sours on account of the growth of organisms within it?

Doctor SCHROEDER. Yes.

The CHAIRMAN. Is it one particular organism or is it a number of organisms that causes milk to sour?

Doctor SCHROEDER. A number; but the organism which seems to be the most important for that purpose is the lactic-acid bacillus.

The CHAIRMAN. Is that also destroyed by pasteurization?

Doctor SCHROEDER. I have made no investigations as to that matter myself, but I understand from some investigations made by our bureau that the lactic-acid bacillus is not altogether destroyed.

The CHAIRMAN. Is it regarded as a friendly or an unfriendly organism when introduced into the human body?

Doctor SCHROEDER. As a friendly organism.

The CHAIRMAN. So that the value of milk as a food is really lessened by pasteurization to the extent to which these organisms are destroyed, is that true?

Doctor SCHROEDER. I do not know whether I would want to agree with that conclusion, because that conclusion, while it has been drawn, does not seem to me to rest on sufficient evidence.

The CHAIRMAN. Do the lactic-acid bacilli, of which you speak, have any effect upon the tubercle bacilli, or on the other pathogenic germs?

Doctor SCHROEDER. Not any that I know of.

Mr. STANLEY. Along that line, while it is hardly germane it is, at least, interesting. Have you investigated this theory that is proposed that the bacilli in sour milk are the greatest enemies of senile debility and old age? I have heard it stated that men in the Ural Mountains live to be over a hundred years old, and I understand they reach that age because of their diet of sour milk.

Doctor SCHROEDER. I think the conclusions drawn as to the longevity in the Ural Mountains are very complimentary to the lactic-acid bacilli.

Mr. STANLEY. If the process of making oleomargarine is subjected to a heat greater than the heat used in pasteurization, would that process of itself be a guarantee against the presence of bacilli in oleomargarine?

Doctor SCHROEDER. Yes, if the oleomargarine was subjected to a temperature sufficient to kill them.

Mr. STANLEY. Then, if the oleomargarine is subjected to a temperature greater than that used in pasteurization and for a greater

length of time, would these bacilli taken from the milk and transferred into the oleomargarine be as easily killed and destroyed by the oleomargarine being subjected to a temperature of that kind as if the milk itself had been pasteurized?

Doctor SCHROEDER. I can not answer that question with absolute certainty, but I am perfectly willing to take my chances with oleomargarine that has been heated in that way.

The CHAIRMAN. As I understand it, the danger of infection in the case of oleomargarine is in having the product, after the fats have all been melted and mixed together, churned in raw milk which has not been pasteurized and is not at any subsequent stage subjected to heat. Do you know whether that is true?

Doctor SCHROEDER. I am not sufficiently conversant with the manufacture of oleomargarine to answer that question.

The CHAIRMAN. In order to have it in the record, I will ask Mr. Jelke. Mr. Jelke, I believe you are familiar with the process of making oleomargarine. Do they churn the raw milk into the oleomargarine, or is the milk itself subjected to the same heat that the other compounds are?

Mr. JELKE. In the best factories the milk is pasteurized before it is used.

Mr. STANLEY. I understand you can make oleomargarine both with and without the use of milk, and that the milk is really the dangerous and insidious ingredient in both butter and oleomargarine. Would it not be a good idea to so frame this law as to exempt from certain of its penalties oleomargarine not made by the use of milk, and to subject oleomargarine to certain penalties in cases where milk is used in its manufacture?

Doctor SCHROEDER. In that case I would except that form of oleomargarine which is made with the use of milk where the milk is pasteurized before using.

Mr. BEALL. What temperature will kill these tubercular bacilli?

Doctor SCHROEDER. 140° F., maintained for twenty minutes, will kill them quite certainly, but probably a little lower temperature would also do it. But personally I would advocate the use of 140° F., maintained for twenty minutes, because the higher the temperature to which the milk is exposed the more danger there is of causing objectionable changes in the milk. At 140° I feel almost certain no objectionable changes will occur in the milk.

The CHAIRMAN. You do not regard boiled milk, then, as wholesome as milk that has not been boiled?

Doctor SCHROEDER. No; I do not.

Mr. LEVER. You said a moment ago that tuberculosis was more prevalent in dairy cattle than in range cattle. Do you know whether or not tuberculosis among dairy cattle is increasing or decreasing?

Doctor SCHROEDER. As far as I can judge, I believe that tuberculosis among cattle generally in America is increasing.

Mr. HAUGEN. This subjecting of milk or cream to a high temperature, say 140°, in the manufacture of butter, would bring about the same result as in the manufacture of oleomargarine, would it?

Doctor SCHROEDER. I believe it would; yes.

Mr. HAUGEN. Then I infer from what you say that there is just as much danger of becoming infected with tuberculosis from the use of oleomargarine as there is from butter, provided the same material is used in its manufacture?

Doctor SCHROEDER. With the exception that the amount of infection in the oleomargarine would be more diluted than in the butter; otherwise the danger would be the same.

Mr. LEE. What percentage of the cattle which you have examined is infected with typhoid or tuberculosis?

Doctor SCHROEDER. Well, typhoid does not occur in cattle, but in the tuberculin tests recently made of the cattle located in the District of Columbia, as I remember it, 18 per cent were infected. Among a very much larger number of cattle tested with tuberculin in New York State, the way I have the figures in my mind now, over 30 per cent were infected, and the disease was found to be located in over 60 per cent of the herds examined.

Mr. STANLEY. There is a provision in the law now that all persons using oleomargarine in places of public entertainment shall notify all persons of that fact. Do you believe if this law could be amended in such a way as to put in a provision something like this—

Dairies shipping butter as an interstate commerce product are to be inspected by the Government, and where tuberculosis is found, those dairies shall be required to place upon their product a statement to this effect, "This butter is made from the product of cattle infected with tuberculosis"—

that would have a tendency to protect the public and destroy this tuberculous cattle?

Doctor SCHROEDER. I do not believe it would be possible to sell the butter.

Mr. BEALL. How long will these bacilli live in butter after it is made?

Doctor SCHROEDER. I made quite a number of tests on that subject; in my tests I found that the bacilli live and retain their virulence three months, and that they remain alive, but with reduced virulence, for 166 days; the last test I made was 166 days, and since they were living then I presume they would have been found living a little longer. There is absolutely nothing in butter to destroy the tubercle bacilli.

Mr. BEALL. Well, anything that could live in butter that is 166 days old could live almost anywhere, could it not?

Mr. FLANDERS. Doctor, do you know whether the cattle examined in New York were cattle in suspected herds or whether they were cattle taken generally and without suspicion?

Doctor SCHROEDER. I can not go into very close detail about these cattle, because the records of the investigations are not sufficiently full. I presume they consisted of several different kinds, those where requests had been made to make the test, those that were inspected because tuberculosis was suspected to exist in the herd, and those that were tested because the men desired to clean up their herds.

Mr. FLANDERS. Then, as a matter of fact, you do not know what the facts are?

Doctor SCHROEDER. The man who reported these figures is Doctor Moore, of Cornell University, and he says we must not conclude from this data how much tuberculosis actually exists in the State of New York, because the cattle tested constituted only a very small percentage of the total number of cattle in the State.

Mr. FLANDERS. The point of my question is this, that there are a million eight hundred thousand cows in the State of New York, and there is a warfare going on in New York to put down tuberculosis

in cattle, and they are examining a great many cattle in suspected herds. One more question. You say you conclude that tuberculosis among bovine animals is on the increase. Can you tell us what you base that conclusion on?

Doctor SCHROEDER. A greater frequency of tuberculosis is being reported at the present time than formerly.

Mr. FLANDERS. But might not that greater frequency occur from the fact that there is greater activity in fighting it rather than more frequency of the disease?

Doctor SCHROEDER. It might be due to that; but when we consider that the general conditions in this country are gradually approaching the conditions in European countries, where the percentage of tuberculosis among cattle is much higher than here, we must expect that the percentage of tuberculosis that is found among the European cattle will also be more nearly approached; hence I think my conclusion that tuberculosis is actually increasing in this country is more nearly the true one.

Mr. FLANDERS. If milk is pasteurized that is to be used in making oleomargarine, would not the milk necessarily have to be kept where the germs could not get to it afterwards, in order to make it sterile? Now, I will take that question back, because I know the milk is not sterile.

Doctor SCHROEDER. Pasteurized milk is not sterile.

Mr. FLANDERS. In order to be safe from the germs of tuberculosis?

Doctor SCHROEDER. I do not quite get the whole of your question.

Mr. FLANDERS. When milk has been pasteurized that is to be used in oleomargarine, as stated by Mr. Jelke it is in the best manufactories, would it not be necessary, in order to be free from the germs desired to be killed, to keep that milk in a certain condition in order to prevent the other germs from getting in the same as these?

Doctor SCHROEDER. It would be necessary in the same sense that it would be necessary to protect any article of food from contamination and from disease germs.

Mr. FLANDERS. It does not necessarily follow it is free from disease germs because it has been pasteurized?

Doctor SCHROEDER. No; it does not follow necessarily, because it may be contaminated in other ways.

Mr. FLANDERS. And might it not be possible, in the process of manufacturing either oleomargarine or butter, that they might become infected with the bacilli of a disease other than tuberculosis from those who were working in it or with it or around it?

Doctor SCHROEDER. Yes; it is possible.

Mr. FLANDERS. And the possibility exists as to both products in that same sense?

Doctor SCHROEDER. Both products.

Mr. FLANDERS. In your judgment, would it not be a fair proposition that these substances should be so manufactured that a man who had fear of either one of them might avoid the one he had the greatest fear of?

Doctor SCHROEDER. I presume so.

Mr. STANLEY. You spoke of having examined tuberculous herds around Washington, Doctor. Did you make any investigation as to the amount of pasture or the area of land that each head of cattle had to graze upon?

Doctor SCHROEDER. No; the work done in Washington is work with which I have absolutely no connection.

Mr. STANLEY. Have you any knowledge of the area, the average area, over which these individual animals have to graze?

Doctor SCHROEDER. No; I have not.

Mr. STANLEY. As I understand it, ranging cattle are not affected with tuberculosis to any appreciable degree.

Doctor SCHROEDER. That is true.

Mr. STANLEY. From a cursory examination I have the impression, rather than the conviction, that the cow as a milk-producing animal has been highly developed by artificial means; in other words, those glands have been abnormally enlarged and she has been kept up in the stable and fed on such foods as would tend rather to produce milk than to feed those glands and to healthfully and wholesomely nourish her body. Have you made any investigations along those lines to find out to what extent that practice prevails among the large dairies where the animals are kept particularly as milk producers?

Doctor SCHROEDER. I have made no investigation, but that is a subject about which I have thought quite a little, and I have long believed that from the fact that the cow is a machine for producing a product which is always recommended as a good substance to drink when one is suffering from tuberculosis—the very fact that she is such a machine contributes considerably to the ease with which she becomes infected with tuberculosis. I believe that answers your question.

Mr. MCCARTHY. Does the pasteurization process of which you spoke tend to bleach butter that is made from it?

Doctor SCHROEDER. That I can not answer.

Mr. STANLEY. I know this, Doctor, that animals that are abnormally fed, like hogs, geese, chickens, and turkeys, all have diseased livers. Now, in regard to this unnatural life that a dairy cow is forced to lead, have you investigated to find out to what extent the liver and other vital organs of the animal, as well as the lungs, are injured, depleted, and rendered more subject to tuberculosis and other diseases?

Doctor SCHROEDER. No; I have no information that I can give on that subject.

Mr. HAUGEN. To what extent was the inspection of herds carried on here in Washington?

Doctor SCHROEDER. I believe the herds actually located in the limits of the District of Columbia were tested.

Mr. HAUGEN. Are all of them inspected?

Doctor SCHROEDER. Doctor Melvin will be able to give you more information on that subject than I can give you.

Mr. STANLEY. Do you know whether the line of investigation I have indicated has been pursued by any department of the Government?

Doctor SCHROEDER. I do not recall any.

Mr. FLANDERS. Doctor, can the disease be contracted by animals eating the offal of steers or bovine animals that are infected with the disease?

Doctor SCHROEDER. They can. That is one of the commonest ways for hogs to contract tuberculosis.

Mr. FLANDERS. Now, if a hog contracts tuberculosis in that way, and the germ gets into the system, what is the favorite lodging place for the bacilli?

Doctor SCHROEDER. The disease was found first in the lymphatic glands at the angle of the jaw.

Mr. FLANDERS. May the bacilli lodge in the fats at all?

Doctor SCHROEDER. Not that I know of.

Mr. FLANDERS. Well, to put it the other way: Is it impossible for them to be in the fats?

Doctor SCHROEDER. They may possibly be present in some of the minute blood vessels that are in the tissue of the fats, when an animal is affected with generalized, advanced tuberculosis, and they may be present in some of the lymphatic glands which are enveloped in the fat, but in the fat proper it will not occur.

Mr. FLANDERS. Then is it possible that in taking that fat and transforming it into oleomargarine, some of the bacilli may get into the oleomargarine?

Doctor SCHROEDER. That is possible. If a knife has been used in cutting across a tuberculous lesion in a hog, the fat from which is used for oleomargarine, the possibility exists that tubercle bacilli may be rubbed from this knife to the fat.

Mr. FLANDERS. Then that might be a way of accounting for the bacillus being found in the oleomargarine; might it not?

Doctor SCHROEDER. For some of them.

The CHAIRMAN. Is it true or not, in that connection, that the fat which is used in the manufacture of oleomargarine is melted before being used? And if it is melted, would that destroy the germs?

Doctor SCHROEDER. It depends upon the temperature at which the fat is melted. If I remember correctly, the fat that is used in the manufacture of oleomargarine can be melted at a temperature greatly lower than the temperature required to kill the tubercle bacilli.

The CHAIRMAN. Can fat be melted at a lower temperature than 140 degrees?

Doctor SCHROEDER. It can; yes.

The CHAIRMAN. Are there any further questions?

Mr. STANLEY. You have been asked about the fats. I think it was Huxley who advanced the theory that children who eat quantities of fat are infinitely more immune from tuberculosis than those who do not use fats. I do not recall the figures exactly, but they were very startling to me at the time I read them. It amounted at certain stages to practical immunity—that those people who ate large quantities of fat were almost immune from tuberculosis.

Doctor SCHROEDER. I have no definite knowledge of what work has been done on that subject; but I do know that fat is very, very highly nutritious and that the resistance to tuberculosis can be built up amazingly by properly feeding the body of a human being. Consequently, I should rather be inclined to believe that to use a good deal of fat would make a person less susceptible to tuberculosis.

Mr. STANLEY. And the one place where this bacillus never lodges is in the fat?

Doctor SCHROEDER. That is one place where we never find it.

Mr. STANLEY. You have been asked about the possibility of a tubercle being found in some part of the mesentery or in the circulatory

system, in some capillary or vein or artery, being imprisoned or embedded in the fat, and carried in that way into the vat, and for lack of 140 degrees temperature still maintaining its life, and then finally getting into oleomargarine and from there into man. Now, I understand it is true that skylarks fly high in the air—so high as to be invisible. It is possible, is it not, for a man to shoot a rifle straight into the air and hit a skylark without ever seeing it?

Doctor SCHROEDER. Yes.

Mr. STANLEY. Is it not about as probable that you will hit a skylark in that way as that you would catch tuberculosis in the way indicated by Mr. Flanders?

Doctor SCHROEDER. Well, I said it was possible, but I do not believe it is at all probable.

Mr. BEALL. I understand that you say that the fat that is used in oleomargarine can be melted at a lower temperature than 140°. Would subjecting it to a higher temperature than that affect in any way its usefulness as a part of this product?

Doctor SCHROEDER. I can not answer that question, sir; I do not know.

Mr. BEALL. You do not know whether it would destroy any of the elements of the fat?

Doctor SCHROEDER. I do not believe it would, but I do not know; I have no information.

Mr. BEALL. Is this test for tuberculosis in animals a very complicated or difficult test?

Doctor SCHROEDER. It is quite a simple test.

Mr. BEALL. It is a very simple test?

Doctor SCHROEDER. It is a very simple test.

Mr. BEALL. Is it such a test as any dairyman might apply himself and determine with reasonable certainty whether or not his herd is infected?

Doctor SCHROEDER. I believe that the more intelligent dairymen might apply it; but then I do not know that I would want to intrust the interpretation of the results obtained from a test to the dairyman.

Mr. BEALL. Take the product of the dairy cow—the milk or the butter: Is the test there, to determine whether or not tubercular bacilli are in the product, a simple or a complex test?

Doctor SCHROEDER. That is a complex test. That would require laboratory facilities. It could not be made at all by a dairyman. It would require a specially trained man, and proper facilities.

Mr. FLANDERS. Doctor, getting right back to the earth again, do hogs suffer from trichina?

Doctor SCHROEDER. They do.

Mr. FLANDERS. Do you know anything about trichina? Have you made a study of it at all?

Doctor SCHROEDER. I have given some attention to it; no special attention.

Mr. FLANDERS. Can you tell us what degree of heat would be required to kill trichina in hogs?

Doctor SCHROEDER. No; I can not answer that.

Mr. BURLESON. A very low temperature, though, I think.

Mr. FLANDERS. These questions take me from high in the air to down quite low. Trichina does lodge in the fat of a hog; does it not?

Doctor SCHROEDER. It lodges in the muscular fibers.

Mr. FLANDERS. But there is a time, is there not, when it is passing from the fiber through the leaf-fat or lard to the muscles?

Doctor SCHROEDER. I do not know. I have not given the subject sufficient attention recently to give definite information on it.

Mr. FLANDERS. My question is based upon what I believe to be the fact. We will assume that, and proceed. If that be true, then if a hog is killed during the time of the transition of the trichina through the fat, and the fat is melted, but not heated sufficiently to kill the trichina—I was in hopes you could tell me what degree of temperature would be required—would not that form a source of danger in the product which this fat was made into?

Doctor SCHROEDER. If I remember correctly, the real danger from the trichina is due to swallowing trichina that are capable of producing living embryos. I am not in a position to say, just at the present time, whether the trichina are already ripe in the stage in which they pass from the intestines to the muscular fibers, in which they finally lodge. If they are, there would be some danger in swallowing them. I am inclined to believe that as they probably are not as yet ripe, hence, if there is any danger at all it is extremely remote. In fact, trichinosis induced by oleomargarine is a pretty far-fetched thing.

Mr. FLANDERS. Some of these questions here are very far-fetched. I do not know that I want to take the time of the committee too long; but we are figuring, Mr. Chairman, on remote possibilities of danger; and the startling proposition is made that the foreign experiments indicate that the danger from oleomargarine and butter is about the same from both sources—about 15 per cent in each. I was trying to find out how it happened. But while we are about it, I wanted to draw out what I believe to be a possible source of danger—and the gentleman admits it to be a possible source, although he says it is remote—from another source, from the hog.

The CHAIRMAN. Are there any further questions?

Mr. STANLEY. Is not the situs of trichina found in the muscular tissue almost universally in the ham of the hog? And is not the only danger from trichina from the eating of poorly cooked ham? Is it not true that you can see its location with the naked eye when you cut the ham?

Doctor SCHROEDER. The trichina is also found in other muscles. In fact, I believe it is found very much more commonly in some other muscles than in the muscles of the ham. Moreover, trichina are sometimes really too small to be seen with the naked eye, especially by a person who is not looking for trichina. In all probability he would pass over the very minute specks they would make in the muscles as being perfectly harmless.

Mr. HAUGEN. At what temperature does butter melt?

Doctor SCHROEDER. I do not know, but it is very low. I can not give it.

Mr. HAUGEN. About 92 degrees, is it not?

Doctor SCHROEDER. Oh, it would melt at a lower temperature than that. I have melted butter between 85 and 90 degrees; but what the precise melting point of butter is, I do not know.

Mr. HAUGEN. At what temperature does oleomargarine melt?

Doctor SCHROEDER. That I do not know at all; but I am inclined to think there is no fat in oleomargarine that does not melt in the

neighborhood of 100 degrees Fahrenheit—from 100 to 103 or 104—in that neighborhood.

Mr. HAUGEN. In fact, I am told it is from 100 to 108. What is the normal heat of the human stomach?

Doctor SCHROEDER. The normal heat of the human body is from 98½ to 98¾ degrees; and that of the stomach would probably be slightly higher.

Mr. HAUGEN. Then it requires a higher temperature to melt the oleo than it does to melt butter?

Doctor SCHROEDER. Well, I do not know. I do not know the melting point of oleomargarine. It may be that a lower temperature would melt it.

Mr. HAUGEN. It does if it is 100 or over 100?

Doctor SCHROEDER. I do not know whether even a lower temperature would melt oleomargarine. I simply know that it can melt at that temperature.

Mr. BURLSON. It would require a still higher degree of temperature to melt meats or fruits, would it not?

Doctor SCHROEDER. Yes; much higher.

Mr. PLUMLEY. Doctor, as I understand it, the evidence you have given as to what disease germs are found in butter and milk you have given us from actual tests? Is that right?

Doctor SCHROEDER. In a great many instances from actual tests. I have referred to the results obtained by other workers as well as myself.

Mr. PLUMLEY. Oh, to be sure; but they are the result of actual tests, either by yourself or by other competent experts?

Doctor SCHROEDER. They are the result of actual tests made by recognized investigators.

Mr. PLUMLEY. Yes. The evidence you have given as to the absence of disease germs in oleomargarine is wholly without a basis of tests?

Doctor SCHROEDER. Wholly without a basis of tests.

Mr. PLUMLEY. Except your European tests?

Doctor SCHROEDER. The European tests do not refer to the absence of disease germs, but to the actual occurrence of tubercle bacilli in butter, and that conclusion is based on actual tests made by competent, recognized European investigators.

Mr. PLUMLEY. But what you doubt about it and what you think may not be in the oleomargarine is a matter of theory and not of test?

Doctor SCHROEDER. It is a matter of theory.

The CHAIRMAN. You refer, Doctor, to the investigations of Doctor Parke in relation to this matter?

Doctor SCHROEDER. Yes.

The CHAIRMAN. Did you have in mind the paper that he read before the convention of the National Association for the Study and Prevention of Tuberculosis in this city a few days ago?

Doctor SCHROEDER. I did.

The CHAIRMAN. And you discussed that as fully as you thought necessary, did you?

Doctor SCHROEDER. I might say something more about that paper; and that is that a conclusion was drawn, which was pretty widely published in the newspapers, which is not Doctor Parke's conclusion. That conclusion reached the public press in the fol-

lowing manner: The night before the meeting at which Doctor Parke read his paper I attended a meeting of the advisory council of the National Association for the Study and Prevention of Tuberculosis, and what purported to be an advance copy of Doctor Parke's paper was put into my hands. It gave Doctor Parke's data, and then drew a conclusion—the same conclusion which was published in the newspapers. I was rather surprised to see such a conclusion from Doctor Parke's own data, especially as I know Doctor Parke quite well and knew that he would draw no such conclusion. I examined this copy carefully, and made up my mind that when Doctor Parke read his paper the next day, if he read that conclusion, I would have a few questions to ask him about it. I listened to his paper, and I did not hear that conclusion.

After Doctor Parke got through reading his paper I took what purported to be a typewritten advance copy of his paper, and I said, "Parke, how about this conclusion?" I put parentheses around it, so that he did not have to hunt it up. He read it, and he handed the paper back to me, and said, "Why, I don't know anything about that. What is this? Where did you get it?" I said, "Why, it was handed to me as I was attending the meeting of the advisory council last night." I said, "You see the heading of it?" "Oh," he said, "why, I don't agree with that; I don't know anything at all about it. That is not my conclusion. Besides," he said, "Doctor Schroeder, you know how I stand on this subject."

The CHAIRMAN. Do you know who wrote the conclusion?

Doctor SCHROEDER. I do not know who wrote the conclusion. I understand that Parke, made some investigation and found out that it had been issued from the executive office, or elsewhere, of the National Association for the Study and Prevention of Tuberculosis.

There is another thing about Doctor Parke's paper. An abstract of the paper, or of a very similar paper, by Doctor Parke was published somewhat earlier in the bulletin of the Johns Hopkins University Hospital, in which Doctor Parke gives his true conclusion. In that true conclusion, in place of saying that all effort in the future must be given to the human source of infection, he says, "These figures show conclusively that we can not neglect the bovine source of tubercle bacilli."

The CHAIRMAN. You are familiar with the conclusion that was reached by the Tuberculosis Congress held here two years ago in relation to this matter, are you?

Doctor SCHROEDER. Do you mean the National Association, or the International one?

The CHAIRMAN. The International Congress.

Doctor SCHROEDER. Yes.

The CHAIRMAN. What was that conclusion, briefly?

Doctor SCHROEDER. The conclusion was that bovine tuberculosis is of too much importance for public health to be neglected or ignored. It was practically that. I am not giving the exact words; but it was practically that.

The CHAIRMAN. And that conclusion was not contradicted, in your judgment, by the actual report or the actual paper which Doctor Parke read?

Doctor SCHROEDER. The actual paper of Doctor Parke supported that conclusion, and supported it strongly.

The CHAIRMAN. We have here a very interesting illustration, as I think the committee will all agree, of the frequency with which newspaper headlines contradict the substance of the article that follows. I have here a copy of a Washington paper, dated May 3, 1910, with these startling headlines:

Experts support Doctor Koch's theory.—Verdict of former tuberculosis congress is flatly contradicted.—Opinions changed in past two years.—Many physicians believe danger of bovine infection is slight.

And the article following gives the statement of Doctor Parke's investigations precisely as it has been given by Doctor Schroeder, showing the very considerable extent to which human tuberculosis is due to bovine infection. I thought it was worth while to call attention to that; and that was the reason I asked you.

Doctor SCHROEDER. I remember the article.

The CHAIRMAN. I have just one or two more questions.

Mr. BURLESON. Right there, Mr. Chairman, in connection with the testimony of Doctor Schroeder with reference to the digestibility of various fats and oils, and the melting point of butter and oleomargarine, I have some excerpts from eminent scientists, giving the authorities—a short document—which I should like to embody in the record.

The CHAIRMAN. On the melting point?

Mr. BURLESON. On the melting point of oleomargarine, and the digestibility of oleomargarine and butter and other fats.

The CHAIRMAN. If there is no objection, the paper will be inserted in the record.

(The above-mentioned paper is as follows:)

DIGESTIBILITIES OF VARIOUS FATS AND OILS.

"All neutral fats, whether animal or vegetable, are broken apart through hydrolysis into glycerine and free fatty acids. The alkali (sodium carbonate) of the pancreatic juice forms a soap from the fats. Soap, fatty acids, and glycerine are absorbed by the intestine, and are found again combined as neutral fat in the lymph." (Chittenden, "Nutrition of Man," p. 37.)

"We are absolutely certain that ingested fat is decomposed into fatty acids and glycerol. The fatty acids unite as much as possible with the alkali present, thus forming soaps. A question yet to be settled is the extent of saponification, i. e., how much of the total fat in the food is entirely decomposed. Although Pfüger assumes that the hydrolysis must be complete, i. e., that only fatty acids and glycerol are available for assimilation, other investigators believe that only a portion of the fat is saponified, while another portion, consisting of finely divided fat globules, is absorbed in this state. * * * To show that a complete hydrolysis occurs, the work of Connstein has been cited. He fed a dog with lanolin. This is not saponified by the usual saponifying agents, * * *: 97.5 per cent of the lanolin administered was evacuated unchanged." (Abderhalden-Hall, Text-book of Physiological Chemistry, p. 104.)

In this connection the saponification numbers of fats are of value. In general, the lower the saponification number, the more perfectly saponifiable a fat is, hence, the more easily it may be expected to be absorbed in the digestive processes.

Saponification numbers of some common ingredients of oleomargarine.

Beef tallow.....	193-200
Cotton-seed oil.....	191-197
Lard.....	195-196
Peanut oil.....	190-196
Sesame oil.....	189-193
Creamery butter.....	220-230

The well-known and generally admitted easily digestible oils—olive oil and cod-liver oil—have saponification numbers of 185-196 and 171-189, respectively.

Further, Abderhalden, page 108, states:

"The amount of fat absorbed depends, as previously indicated, upon its composition. For instance, 97.7 per cent of olive oil is utilized and 97.5 per cent of fats which melt at temperatures between 25° and 34° C. (goose grease and lard). On the other hand, 90 to 91.5 per cent of mutton tallow, melting at 49° to 51° C., and only about 15 per cent of spermaceti, melting at 53° C., are absorbed by human beings."

In this connection the melting points of some grades of oleomargarine and of creamery butter are of interest.

Melting points.

	° C.
Creamery butter.....	31
Creamery butter.....	31. 1
Oleomargarine containing cotton-seed oil and no creamery butter.....	26. 35
Oleomargarine containing cotton-seed oil and no creamery butter.....	27. 6
Oleomargarine containing creamery butter.....	27. 9
Oleomargarine containing more creamery butter than the preceding.....	30

It is seen from the table that the larger the percentage of cotton-seed oil the lower the melting point. As percentage of solid fats, such as butter and neutral lard, increases, the melting point is raised. In general the cheaper grades of oleomargarine contain the greater percentage of fluid oils, hence melt at a considerably lower temperature than creamery butter.

Potential energy and the relative nutritive value of various organic foodstuffs.—This potential energy of the various foods may be represented by the amount of heat which is set free in their combustion. The results, which represent the calorific value of a few nutritive bodies on complete combustion follow:

	Calories.
Casein.....	5. 86
Ovalbumen.....	5. 74
Conglutin.....	5. 48
Protein (average).....	5. 71
Animal tissue—fat.....	9. 50
Butter fat.....	9. 23
Cane sugar.....	3. 96
Lactose.....	3. 95
Dextrose.....	3. 74
Starch.....	4. 19

(Hammersten-Mandel, Text-book of Physiological Chemistry, p. 554.)

In this table it will be seen that the fats are out of all proportion to the other foods in their value as fuels in the body, i. e., as foods. Of the two fats mentioned in the table, animal tissue fat, of which oleomargarine is largely made, has a higher value than butter.

The following comparison of a number of common foods are also taken from König, l. c., Volume II, page 233.

Material.	Number of trials.	Fat in daily food.	Fat in daily feces.	Fat not utilized.	(A.)
		Grams.	Grams.	Per cent.	Per cent.
Butter.....	2	116. 41	3. 46	2. 99	2. 14
Oleomargarine.....	4	120. 39	3. 91	3. 23	2. 45
Lard.....	1	102. 71	5. 83	5. 67	3. 64
Compound of imitation lard.....	2	102. 75	5. 68	5. 52	3. 71

Column marked (A) represents the unutilized fats when only the saponifiable matter is considered. König states (p. 233) that the differences between these fats are too small to decide whether one is better than the other.

"From the above data it is seen that the objections to the use of oleomargarine are more on the grounds of fraud and deception than in regard to nutritive and dietetic value. The components used in the manufacture of oleomargarine, when properly made, are all wholesome and digestible materials, such as are consumed in eating various food products. It does not appear, therefore, that any valid objection can be made against the use of oleomargarine from a physiological or hygienic standpoint." (H. W. Wiley, "Foods and Their Adulteration," p. 190.)

The CHAIRMAN. You stated a few moments ago, Doctor, that in the mechanical separation of milk and cream there remained a considerable sediment. What is that sediment composed of?

Doctor SCHROEDER. It is composed of bacteria, various cellular elements from the milk, and dirt—foreign matter of various kinds, and a good deal of the foreign matter looks like cattle feces.

The CHAIRMAN. I believe that you said about 60 per cent of the tubercle bacilli remained in the cream?

Doctor SCHROEDER. About; yes.

The CHAIRMAN. How would you divide the remainder—the remaining 40 per cent?

Doctor SCHROEDER. The remaining 40 per cent would be in the sediment. The intermediate layer of skim milk would be practically free from tubercle bacilli.

The CHAIRMAN. So that when milk is separated in a machine the skim milk is practically free from the bacilli?

Doctor SCHROEDER. Practically free; yes.

Mr. BURLESON. The skim milk is usually fed to the pigs?

Doctor SCHROEDER. Yes; but the method of extracting the skim milk in ordinary commercial separators would cause a recontamination from the sediment.

Mr. STANLEY. That would be a great protection to the hogs.

The CHAIRMAN. You will permit me to say, Doctor, that it is a great satisfaction to have a man come before the committee who has accurate information and who expresses it clearly and distinctly. We are greatly obliged to you. [Applause.]

Doctor SCHROEDER. Thank you.

STATEMENT OF DR. A. D. MELVIN, CHIEF OF THE BUREAU OF ANIMAL INDUSTRY, DEPARTMENT OF AGRICULTURE.

Mr. BURLESON. Doctor Melvin, state to the committee, briefly, your name, your official position, and your profession; and then give the committee your opinion, based upon investigations made by yourself and scientists under your control, with reference to the prevalence of tuberculosis in beef cattle and dairy cattle, and whether it is on the decrease or increase?

Doctor MELVIN. My name is A. D. Melvin. I am chief of the Bureau of Animal Industry. By profession I am a veterinarian.

Our investigations, compiled from the testing of live cattle with tuberculin and from the reports of tuberculosis received at abattoirs, indicate that among dairy cows somewhere from about 16 to 18 per cent of the animals are infected with tuberculosis. In our abattoir reports we find about 1 per cent of tuberculosis among cattle, and about 2 per cent among hogs. In my opinion this disease has increased considerably during the past several years. I think that we know more of it on account of the increased work that has been done; but I think this increase in percentage which we now find in packing houses over what we found years ago is due both to increased efficiency of inspection and also to the increase of the disease.

Mr. BURLESON. Now, Doctor, state to the committee whether or not the dairy cow or the dairy herd is the principal source of infection. And if so, give the committee the benefit of your opinion as to whether or not the placing of milk, cream, butter, and cheese under the meat-

inspection act would tend to eliminate, suppress, or destroy this disease, or aid in the elimination, suppression, and destruction of the disease?

Doctor MELVIN. I think a law calculated to regulate the wholesomeness of dairy products, including milk and cream, would have to be drawn along considerably different lines than those which were provided for the meat inspection; that the present meat-inspection act would hardly be comparable to an inspection of milk and dairy products.

Mr. BURLISON. But if a law of that kind were passed, would it aid in the detection of the sources of infection, and the suppression and elimination and destruction of this disease?

Doctor MELVIN. Yes; if it was well provided for by funds, and thoroughly enforced, it would undoubtedly have that tendency.

Mr. HAUGEN. Can you give an estimate as to the amount that would be required?

Doctor MELVIN. It is a pretty big subject. We had to guess rather vaguely at the amount of money that would be required to enforce the meat-inspection act.

Mr. HAUGEN. How much is required to enforce that?

Doctor MELVIN. Three million dollars.

Mr. HAUGEN. But you have an outside appropriation. That is a bureau. The expense of the bureau is maintained outside of that. What is the total expense of the Bureau of Animal Industry?

Doctor MELVIN. The expense for maintaining the Bureau of Animal Industry?

Mr. HAUGEN. Are there not appropriations outside of the permanent appropriations?

Doctor MELVIN. Yes, sir; there is something over \$1,400,000 besides.

Mr. STANLEY. But the \$3,000,000 is all you have for the enforcement of the meat-inspection law?

Doctor MELVIN. Yes, sir.

Mr. HAUGEN. Does that \$3,000,000 cover all the expenses, foreign, etc.?

Doctor MELVIN. Yes, sir.

Mr. HAUGEN. How many factories or packing houses have we at present?

Doctor MELVIN. Between eight and nine hundred.

Mr. HAUGEN. Can you give the number of creameries in operation at the present time?

Doctor MELVIN. I think there are probably about 6,000.

Mr. HAUGEN. You would have to have at least one man at each creamery?

Doctor MELVIN. No; I do not think so. I think they would not require the close supervision that the packing houses do. They would not require so many at any of them as are required at some of the large packing houses. We have from 20 to 40 employees at a single packing house in the case of some of the larger ones. I doubt if at any of the larger creameries we would require more than two or three.

Mr. HAUGEN. My question was, you would require at least one man at every creamery?

Doctor MELVIN. I think some of them could be grouped, so that one man could look after two or more.

Mr. HAUGEN. How about the farms where butter is made and sold?

Doctor MELVIN. If such an act is provided, I think it would be necessary to make some exemption for products produced on the farm, the same as is now provided for meats under the meat-inspection act.

Mr. BURLESON. Doctor, if a bacteriological analysis of butter were made, and you discovered the tubercular germ in it, you could then trace the source of infection to where it came from, and that particular animal could be treated or killed. It would not be necessary to keep an inspector at every creamery, would it? When you had freed a particular herd from this disease, you would wait until, by bacteriological tests, you discovered tuberculosis in that herd again?

Doctor MELVIN. I have not given this subject so much thought as I should like to. In fact, I had not thought on it very much until it was recently presented to me by a member of this committee. But it would seem to me that a creamery which was obtaining its milk supply from cattle that were free from disease, and that could be certified as free from disease, might be exempt from this inspection. The creameries or other factories that manufactured butter from herds that could not be so certified should have inspection. I think that if any neighborhood should provide healthy cows—cows that could be certified as healthy—there would be no necessity for maintaining inspection longer at that creamery.

Mr. HAUGEN. How about the farms that manufacture butter and sell it?

Doctor MELVIN. Such a measure, I think, would necessarily lead back to the farms—

Mr. HAUGEN. It would eliminate them from the manufacture of butter, would it not, the same as it does now, for instance, under the meat-inspection law? Farmers are not allowed to kill their own stock, and can not ship them in interstate commerce.

Doctor MELVIN. Oh, yes; they do. There are a great many meat products that are prepared on the farms, and forms of certificates are provided whereby the farmers can ship this meat in interstate commerce.

Mr. HAUGEN. Yes; but the red tape absolutely or practically eliminates them from the business.

Doctor MELVIN. No, sir; it does not, because there is a large amount in the aggregate that is shipped yearly by farmers.

Mr. HAUGEN. It is not that we are finding any fault; but in our part of the country hardly any is shipped any more on account of the red tape and the impossibility of securing the inspection. Of course it would be a physical impossibility for the department to comply with all these requests.

Mr. BURLESON. They have no such difficulties in Texas.

Mr. HAUGEN. I am glad to know it.

Doctor MELVIN. Mr. Chairman, these farmers are provided with a form of certificate, or a form of certificate is specified by the department, whereby the farmer can ship his cured meats or fresh meats in interstate trade by presenting this certificate to the freight office or the express office. The express office has to return a duplicate of that certificate to our office here in Washington. And a compilation of those certificates shows that there is a great deal of meat that is shipped in interstate commerce by farmers.

Mr. STANLEY. Of course you have no jurisdiction to inspect butter or meat or anything else unless it enters into interstate commerce?

Doctor MELVIN. Except in this way: At any establishment where we have inspection, we assume the right to inspect everything that is prepared in that establishment, whether it is for interstate or local trade.

Mr. STANLEY. I understand. Unless the man is engaged in interstate commerce, however, you have no jurisdiction over his establishment, of course.

Doctor MELVIN. No, sir.

The CHAIRMAN. Coming back to Mr. Haugen's original question, would you care to make any estimate of the initial cost of establishing such an inspection as has been suggested here?

Doctor MELVIN. It would be a question, I think, of anywhere from—

Mr. LEVER. I just want to make this suggestion, Mr. Chairman: I doubt if Doctor Melvin has worked this matter out very carefully as to the estimate; and I submit that it would be more valuable to the committee to have him work it out carefully and submit it.

The CHAIRMAN. That is the reason I asked him whether he cared to do it or not.

Mr. LEVER. Have you worked it out, Doctor?

Doctor MELVIN. No, sir; I can only say, in a general way, that it would probably cost several million dollars.

Mr. LEVER. In that connection I suggest that Doctor Melvin figure more closely upon that proposition, and submit his estimate to the committee later and let it become a part of the record.

The CHAIRMAN. If he will be kind enough to do that, I think the committee will be glad to have it.

Mr. McCARTHY. At what temperature, Doctor, is oleomargarine rendered, if you happen to know?

Doctor MELVIN. Do you mean the fats that enter into it?

Mr. McCARTHY. Yes, sir.

Doctor MELVIN. The usual temperature, I believe, is from about 140 to 165 degrees Fahrenheit.

Mr. McCARTHY. What do you think as to the possibility of trichina getting into oleomargarine?

Doctor MELVIN. I do not think it is a possibility that should be considered.

Mr. McCARTHY. Mr. Chairman, with your permission, I should like to read an abstract from this paper to Doctor Melvin. I have a purpose in doing it—to bring out some answers on other questions.

I have before me a copy of Hoard's Dairyman of May 6, 1910. I believe that is one of the recognized organs of the National Dairy Union, or, at least, of the dairy interests.

Doctor, I should like to read part of this to you [reading]:

It is the first business of the oleomargarine makers to deceive the public. Their business is based on false claims and deception. They put forth the false claim that their grease is a wholesome substitute for butter.

My first question is: Do you consider oleomargarine wholesome?

Doctor MELVIN. I do, properly made.

Mr. McCARTHY (reading):

Then they say that it is made with the utmost neatness, which only applies to the open place where it is compounded, and not to the place where the various oils are secretly made.

Are any of the oils which go into the manufacture of oleomargarine secretly made?

Doctor MELVIN. Not to my knowledge.

Mr. McCARTHY. They are all made under the direct personal supervision of your inspectors, are they not?

Doctor MELVIN. Yes, sir.

Mr. McCARTHY. And that inspection goes on practically night and day where establishments are open night and day?

Doctor MELVIN. When necessary; yes.

Mr. McCARTHY (reading):

Now, they are raising the cry that oleomargarine is greatly to be preferred, because of the danger—they say—of tuberculosis infection in butter. What silly humbug. Their hog oil and beef oil comes from where? From cattle and hogs, just as liable (and more) to have tuberculosis as dairy cattle.

Do you consider that other cattle and hogs are just as liable, and more, to have tuberculosis, as dairy cattle?

Doctor MELVIN. Are you asking me that as a question?

Mr. McCARTHY. I am asking you that question?

Doctor MELVIN. Just repeat it, please. I thought you were reading it.

Mr. McCARTHY. Do you consider that other cattle than dairy cattle and hogs are just as liable, and more, to have tuberculosis as dairy cattle?

Doctor MELVIN. No; I do not. I think my first answer covers that.

Mr. McCARTHY (reading):

What is done with the carcasses of hogs and cattle condemned for tuberculosis? They are taken to the rendering tank. What is done with the oil? You tell.

Now, I should like to ask you this question: What is done with the carcasses of hogs and cattle condemned for tuberculosis?

Doctor MELVIN. All animals that are condemned on account of disease are rendered in what is known as offal tanks. These tanks contain fecal matter and refuse generally from the packing house; so that the product is completely denatured in that process.

Mr. McCARTHY. It would be utterly impossible to use it in an edible product?

Doctor MELVIN. I think it would.

Mr. McCARTHY (reading):

A bigger and more ridiculous humbug was never worked on the consuming public than this attempt to make them believe that the packing house is a safer place to compound food than the farm.

I should like to ask whether you consider that the packing house, under the constant inspection of your bureau, is not a safer place for the compounding of food than the farm?

Doctor MELVIN. I would take my chances on the packing house.

Mr. HAUGEN. I supposed this question of wholesomeness was settled. I want to read to you from Doctor De Schweinitz, of the Agricultural Department. Do you happen to know him?

Doctor MELVIN. Yes, sir.

Mr. HAUGEN. Is he not in the department now? I should like to read from his testimony.

Mr. BURLESON. At what date?

Mr. HAUGEN. Before the committee, eight or nine years ago.

Mr. BURLESON. That was before there was any inspection.

Mr. HAUGEN. Let us see about it.

Mr. BURLESON. I do not think it is material at all.

Mr. HAUGEN. Well, I should like to read it, right on this question of wholesomeness.

Mr. BURLESON. I submit to the committee that it is simply a burdening of the record with the testimony of a man who spoke of conditions before government inspection; and it has absolutely nothing whatever to do with this matter.

Mr. HAUGEN. Oh, those same things exist now. There is nothing to hinder that. I will read it to you, and you can see how easily it can be done. [Reading:]

Doctor De Schweinitz, of the Agricultural Department, in his visit to a factory which was several years ago located in Philadelphia, found the same condition of affairs. Oleo oil was being made from a pile of fat scraps collected from the hotels, restaurants, and butcher shops, which pile gave out such an odor that it was sickening, and the makers admitted it was being made into oleomargarine.

That substantiates what I told you the other day.

Mr. LEVER. I should like to ask Doctor Melvin if he knows anything about the manner in which oleomargarine is manufactured, and if such conditions as are described there now exist?

Doctor MELVIN. I know in a general way. There is no oleo that enters into interstate trade that is manufactured in that way. I will not say that there might not be some whose business is entirely within a State; but there is none that enters interstate trade that is made in that manner.

Mr. MCCARTHY. Do you know of any oleomargarine factories that are doing a purely state business?

Doctor MELVIN. No, sir.

Mr. MCCARTHY. As far as you know, Doctor, all of them are doing an interstate business and must have your inspection?

Doctor MELVIN. So far as I know; yes, sir.

Mr. STANLEY. To get back to this question of tuberculosis, I want to ask you one question, Doctor: Can you tell me whether or not you have made any investigation of the conditions existing in the dairies of this country—the physical conditions to which the cow is subjected that render her a special subject of tuberculosis? As I understand you (to make myself perfectly clear), there is eight times as much tuberculosis among dairy cows as other cattle—range cattle. Is that due to the conditions to which the dairy cow is subjected? And, if so, what are those conditions?

Doctor MELVIN. I think, as Doctor Schroeder stated, that it is principally due to the increased and the intense exposure which animals receive in dairies that is not prevalent among the cattle that are on open ranges. That is one factor. Another is the increased strain which dairy cows have to undergo in producing milk, which would probably render them somewhat more susceptible than beef cattle, for instance.

Take any cattle or person that is subjected to undue influences of that sort, improperly nourished or improperly housed, and they are nearly always more susceptible to disease than well-nourished people or animals.

Mr. STANLEY. Have you examined these dairies? Have you been through these dairies?

Doctor MELVIN. I have been through some of them; yes, sir.

Mr. STANLEY. To what extent does the dairy cow lead what we might call a sedentary life?

Doctor MELVIN. Well, take the ordinary commercial milk dairy cow: After it enters a dairy, its dairy life lasts generally up to the time it ceases to be a profitable producer. In the more valuable herds, where breeding is a feature, of course they live much longer, and are usually kept as long as they can produce good calves.

Mr. STANLEY. What is the comparative age of dairy cows and other cattle when slaughtered?

Doctor MELVIN. I have not made any particular investigation along that line. I should say probably in the one case from 3 to 4 years as compared with perhaps 10 or 12 years.

Mr. STANLEY. It used to be common to have an arrangement of stalls by which the cow put her head in a rack, and it was held there; and the cow spent a great portion of her time in this stall, but very little of the time grazing. Does that condition prevail among dairies near cities, where cows are literally stabled a great portion of the time?

Doctor MELVIN. Some arrangement similar to that, I think, prevails very generally among the ordinary city dairies.

Mr. STANLEY. Will a cow taken from a range—for originally, I suppose, all cattle originate on a range—and confined in that way remain healthy for any length of time?

Doctor MELVIN. I do not think these dairy cows are recruited from what you might call ranges; but it would depend very largely upon whether the animal was exposed to disease or not. So far as contagious diseases are concerned, if there was no exposure the cow would remain healthy indefinitely.

The CHAIRMAN. I think we shall have to close this examination now.

Mr. HAUGEN. You concur in the statement made by Doctor Schroeder that the danger is just as great from oleo as it is from butter, provided milk, butter, and cream are used in the manufacture of oleo?

Doctor MELVIN. It is dangerous in the proportion that milk and butter enters into the oleomargarine; in proportion to the fats and milk and butter that are used.

Mr. LEVER. The Doctor did not make the statement that the danger was equal at all.

Doctor MELVIN. No.

Mr. LEVER. He said the danger was equal in proportion to the ingredients used.

Mr. STANLEY. Has the Bureau of Animal Industry supervision of creameries?

Doctor MELVIN. No, sir; the only supervision we have over dairy products is in regard to renovated butter.

The CHAIRMAN. We are very much obliged to you, Doctor.

Mr. Tomlinson, secretary of the American National Live Stock Association, who appeared before the committee yesterday, has asked for two minutes to supplement a statement that he made.

**FURTHER STATEMENT OF MR. T. W. TOMLINSON, OF DENVER,
COLO., SECRETARY OF THE AMERICAN NATIONAL LIVE STOCK
ASSOCIATION.**

Mr. TOMLINSON. I stated yesterday, Mr. Chairman, that it was my opinion and the opinion of the officers of the American National Live Stock Association that the present prohibitive tax on oleomargarine affected the value of their beef cattle substantially 75 cents a head. In connection with that statement I was asked the total slaughter of cattle in the United States, and I stated that including calves it amounted to about 19,000,000 head annually. I desire to correct that, and state that it amounts to about 18,000,000 head annually, in round numbers. The figures were prepared by the Bureau of Animal Industry in connection with the hide controversy, and they took into account the fall in hides, which made it about 19,000,000. Of this 18,000,000 approximately 5,000,000 are calves, and of the remainder of matured cattle (the 13,000,000), 7,000,000 and a fraction (7,250,000) are slaughtered in establishments where the Bureau of Animal Industry conducts its inspection system, which, as I understand, are about 986 establishments.

Therefore, commercially speaking, the product of oleo oil which enters into the markets of the world comes substantially from the cattle which are slaughtered in these establishments where they maintain inspection; because those slaughtered in small establishments and on the farm have not the ability to utilize the by-products, such as oleo oils, and therefore they do not enter into the tally. That, therefore, reduces the number, as I said, to 7,000,000 which produce this oleo oil. And applying that number to the total production of oleo oil in the country, and considering also that on a free, unrestricted market, the value of oleo oil would be proportionately larger on account of the foreign demand and the demand on account of the oleo makers, we arrived at the conclusion that 75 cents per head is a safe and conservative estimate.

In connection with the total production of oleo oil and neutral oils, I find in the report of the Department of Commerce and Labor that there was exported for 1909, 161,000,000 pounds; in 1908, 195,000,000 pounds; in 1907, 204,000,000 pounds; in 1906, 201,000,000 pounds.

Mr. HAUGEN. That has nothing to do with the tax, of course—the export.

Mr. TOMLINSON. I understand that; but our position is that the stimulus in the trade in general would result in an increased price of the product, whether it was exported or was used in domestic consumption.

Mr. HAUGEN. Have you got the number of pounds used in the manufacture of oleo?

Mr. TOMLINSON. In this country?

Mr. HAUGEN. Yes.

Mr. TOMLINSON. No, sir; I have not got it.

Mr. HAUGEN. It is less than 35,000,000 pounds, is it not?

Mr. TOMLINSON. I do not know.

Mr. HAUGEN. At 10 cents a pound that would be three and a half million dollars, and with 7,000,000 head it would be 50 cents a head.

Mr. BURLESON. There is no use speculating about that. The actual figures can be obtained, and there is no use putting guesswork in the record.

Mr. HAUGEN. There is no guesswork about it. The actual value of the oil is equal to 50 cents a head.

Mr. TOMLINSON. We had the same difficulty in estimating properly the effect of the removal of the duty on hides. We estimated it would make a difference of a dollar and a half on the value of every steer in the country. As a matter of fact, since the going into operation of the new tariff law, and the removal of the duty on hides, hides are now 5 to 6 cents a pound less than they were when the present law went into effect. Therefore, by reason of the effect of the competition bringing in the foreign hides, it reduces the price not only by the actual amount of the duty, practically one and a half dollars, but it makes it two or three times as much. The same kind of competition, we claim, will give greater value to the oleo products of the steer.

The CHAIRMAN. You did not state just what you meant to say, did you? Has not the price of hides advanced instead of declined?

Mr. TOMLINSON. It has declined.

The CHAIRMAN. You said the price of hides was 5 or 6 cents a pound less.

Mr. TOMLINSON. That is right; the price of hides is 5 or 6 cents a pound less than at the time the Payne-Aldrich bill went into effect.

The CHAIRMAN. I thought the price of hides had gone up.

Mr. TOMLINSON. It went up temporarily, for about a month.

The CHAIRMAN. They are very much lower now, are they?

Mr. TOMLINSON. Now they are down very much lower—very much lower; and it affects the value of our steers three, four, or five dollars a head. In this connection I also wish to say that the steer cattle of course produce relatively much more oleo oil or butter fat than do the dairy cattle; and in calves it is rather a negligible quantity. Therefore the effect on our folks that raise range cattle and beef cattle is larger than any figures that could possibly be presented would seem to indicate.

Mr. BURLESON. I desire to state to the committee that we had expected to present before the committee a representative of the Retail Butchers' Association, who desired to express his disapprobation of this law, and the earnest hope that it would be repealed; also a representative of the cotton growers of America. But in view of the desire of the committee to bring the hearings to a close, we will now rest our case.

The CHAIRMAN. And the committee will stand adjourned until 10.30 o'clock to-morrow morning, when the butter people will proceed with their case.

(As above stated, the committee thereupon adjourned until to-morrow, Friday, May 13, 1910, at 10.30 o'clock a. m.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Friday, May 13, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. Before we proceed with the hearing this morning I desire to make a brief statement in connection with a paragraph which appears in a letter, a copy of which I hold, signed by George L. McKay, who, I believe, is secretary of the National Association of Dairymen. This letter is dated Chicago, Ill., April 27, 1910, and while no individual name appears on the copy which I have, it was evidently addressed to the members of that association, and in it I find some sentences I wish to read. Reference was being made to the hearings before this committee on the oleomargarine bills, and this language was used:

Some confusion was brought about by the manner in which the chairman of the Agricultural Committee permitted the hearing to be conducted. The understanding that Congressman Tawney had with the chairman of the committee was that the oleomargarine interests should present their side of the case first, then the dairymen would have the opportunity to present theirs. In the absence of Congressman Tawney at the time the hearing began, the chairman reversed matters by giving the oleomargarine interests one day, and the dairymen the next. This was somewhat confusing and embarrassing to many of the dairymen who took part in the hearing. They were asked questions by various Congressmen concerning bills that had been presented by them, and, of course, they were unable to answer these satisfactorily as they had never read the bills.

Mr. McKay, may I ask if you are the author of that statement?

Mr. McKAY. I am the author of that; yes, sir.

The CHAIRMAN. I should like to ask Mr. Tawney, who is present, what his recollection is in regard to this matter?

Mr. TAWNEY. Mr. Chairman, my recollection is just exactly what I stated on the second day of the hearings. I made no statement, as the chair will remember, and the hearings do not show that I made the statement, that there was any agreement or understanding between the chairman of this committee and myself as to the form and manner in which the hearings should be conducted. I think the gentlemen who were present when I made my statement will bear me out, as the record does, that all I said was that I had supposed the hearings would proceed in the ordinary way; that is, that one side would be heard through to the end, and then the opposition, or those who were opposed to the proposition being considered, would be heard through to the end. But I made no statement to the committee nor to anyone that there was any understanding, because there was not. I so notified—and I so stated at the time—the dairymen from Minnesota that their hearing would follow the hearing of the oleomargarine manufacturers; but in making that statement to them I relied upon the usual and ordinary practice of committees hearing outside parties on matters pending before the committee—

The CHAIRMAN. And not upon any agreement that had been entered into with the chairman of the committee?

Mr. TAWNEY (continuing). And not upon any agreement or understanding I had with the committee at all.

The CHAIRMAN. And the plan was laid to conform to that?

Mr. TAWNEY. Yes.

Mr. McKAY. Undoubtedly I misunderstood Mr. Tawney. My understanding was that the oleomargarine people were to present their side first, and that the plan had been broken up and the hearing had become a mere bushwhacking back and forth. I wrote that letter in good faith, not with the idea of criticising the chairman or anything of the kind, but of giving our members an idea just how this thing was conducted, and if I have misunderstood it, I am perfectly willing to apologize to the committee.

The CHAIRMAN. I am quite willing to believe that Mr. McKay made this statement in good faith, and yet it is obvious that anyone reading it and believing it to be true would gain the impression that the chairman of the committee had acted in bad faith with one of his colleagues in the House; that he had deliberately violated an agreement into which he had entered; that he had taken advantage of the temporary and unexpected absence of Mr. Tawney to direct the hearing in such a way as to bring disadvantage to those who were supporting the dairy interests; and it was because such an impression as that would do me gross injustice, as I am sure every member of the committee will bear witness, that I desired to call attention to it. The truth is that I had no understanding with Mr. Tawney, as he has just stated, except that hearings would be granted. The question as to the order of procedure in those hearings was not discussed between Mr. Tawney and myself at all. The only discussion prior to the beginning of the hearings, as to the order in which they should proceed, was before the full Committee on Agriculture when Mr. Burleson presented the suggestion that the hearings should proceed on alternate days, two days of each week, until concluded, the oleomargarine interests to be heard first and the dairy interests second. That suggestion was agreed to, not by arrangement with the chairman but by unanimous vote of the committee, and it was not until the first two days had been occupied in that way that a different arrangement was entered into.

Mr. McKAY. Mr. Chairman, I am willing to send out another letter correcting that statement, if I have done you an injustice in that matter.

Mr. BURLESON. In that connection I desire to state that the statement made by the chairman is in accordance with the facts. He was in nowise responsible for the plan of conducting the hearings. It was upon my own motion that I appeared before the committee and asked that the hearings be fixed for a given day, and my recollection is that some member of the committee suggested, or it may have been——

Mr. STANLEY. I will supplement what you say by saying that it was freely discussed with the committee, and no member favoring the butter interests, or none favoring the oleomargarine interests, made any suggestion as to the tentative agreement suggested by you.

Mr. BURLESON. There was no desire to take advantage of the butter people. On the contrary, we thought we were giving them the best of the deal when we gave them a hearing immediately after the day that we were to occupy with the cotton-growing people and the cattle-growing people.

Mr. TAWNEY. Mr. Chairman, I find my statement that I made before the committee in the record here. This is the first time I have seen it, and therefore it has not been changed by me or by anybody

without authority. I read from page 139 of the record of these hearings:

Mr. TAWNEY. If the chair will pardon me for interrupting him right there, that announcement was made after the request of the gentleman from Texas, the author of the bill, that the hearings begin on the 20th of April, to those who favored the passage of the Burleson bill; but it was not, so far as I understood, and so far as I was informed, to include the hearings on the other side of the proposition. At the time he requested the hearings the dairymen had not requested a hearing; and while the chair is affording me the opportunity to make this statement, I want to withdraw the statement that I made a moment ago, that the request for a hearing was made by the gentleman from Texas in behalf of the manufacturers of oleomargarine. I know that he is somewhat sensitive about his associations in that regard, and prefers to be the representative of the cotton-seed oil manufacturers.

Then the chair interrupted by saying:

Of course that is a matter which does not interest the committee.

I then continued:

Mr. TAWNEY. No; but as a matter of fact the author of the bill requested the hearing on his bill in behalf of the passage of the bill, and I supposed, of course, that the same line of procedure would be followed, the same practice that has obtained heretofore before this committee and before the committees generally, of hearing first one side on the proposition to a conclusion and then taking up the matter on the other side.

That was my statement, and the only basis for the statement referred to by the chair.

The CHAIRMAN. I do not care to magnify the matter; I only desired to bring it to the attention of the committee and of the gentlemen present, and to let the record show that the letter sent out by Mr. McKay was in fact a misrepresentation of the attitude I have taken; although I am quite willing, as I have just said, to acquit him of any intentional wish to misstate the facts.

The clerk of the committee calls my attention in this connection to the fact that the notices which were sent out at my direction to those who desired a hearing on these matters contained the statement that alternate days would be given to the proponents and opponents of the bills.

Mr. TAWNEY. Mr. Chairman, the House meets at 11 o'clock, and the sundry civil bill is under consideration, so I will now leave you.

(Mr. Tawney here left the committee room.)

The CHAIRMAN. The understanding is that the time is to be occupied to-day by representatives of the dairy interests, and we will be glad to have you introduce your next witness, Mr. Flanders, if you will.

Mr. FLANDERS. Mr. Chairman, I will take simply two or three minutes to state what bill we stand for, without discussing the merits of the bill at this time, and to introduce the first speaker. Those who represent the interests that I represent stand for the bill that is now in the House, known as the McHenry bill, and which appears in the Senate as the Penrose bill, because we believe that it strengthens the attitude that Congress has taken, and we believe to have been correct, and tends to make it what it was intended to be. Beyond that, at this time, I will make no statement relative to the bill, but I will introduce the first speaker. The first speaker on our side of the proposition is a Member of the House who needs no introduction to you. I refer to Mr. Malby, of New York. I will state that Mr. Malby comes from the strongest dairy district in the State of New York, a

district that has a cow to every inhabitant, man, woman, and child, where we believe in the purity of dairy products and of all products; from the State of New York, one of the greatest dairy States in the Union. Mr. Malby.

**STATEMENT OF HON. GEORGE R. MALBY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK.**

MR. MALBY, upon being introduced, said: Mr. Chairman and gentlemen of the committee, after the statement of Commissioner Flanders of the agricultural department of the State of New York with reference to the character of the district which I represent, perhaps no apologies, at least, will be due for my presence, although I, in advance, extend those apologies for the lack of that information which, upon such an important subject as this, I perhaps should have. It is true that the district which I have the honor of representing is purely an agricultural one, dealing in dairy products. Out of a population, I should judge, of 240,000, at least half of the entire population are engaged directly in agricultural pursuits, and the other half live, because of that industry, in my district. I presume, in this district, being the St. Lawrence Valley, we have at least 20,000 to 25,000 men who are engaged as the heads of families in the raising of stock and in the manufacture of dairy products. However, what I may have to say will probably apply with equal force to all parts of our Union, which are similarly situated. Personally, many years ago, as you will observe, I was reared upon a farm, and gained such intimate knowledge of that industry and of the people as such close contact with them would permit.

My attention has been called to several bills which have been introduced in the House of Representatives by its several members, having for their object and purpose the regulation and sale of butter and oleomargarine. Upon examination, I do not find any except the McHenry bill which, from my standpoint, can be said to be, or is, in the interests of either the butter producer or the butter consumer. I will take occasion to refer to these bills a little later, after I have called your attention to the legislation upon this subject, which I presume has been done heretofore, but in order that I may refer to it later, I desire to have it inserted here in so far as it may apply to the views I desire to express.

The first oleomargarine law was passed, as I recall it, August 2, 1886 (24 Stat., 209). Section 3 of that act imposed a tax of \$600 per annum on manufacturers of oleomargarine, \$480 on wholesale dealers, and \$48 on the retail dealers. Section 8 thereof provides for the assessment and collection of a tax of 2 cents per pound on oleomargarine, to be paid by the manufacturer thereof.

I desire to call the attention of the committee to the fact that this law was not passed without a very great struggle, which had continued for several years, and not until after there had been aroused throughout the country such a public sentiment as positively demanded it. I find, upon consulting the Congressional Record, that in March, 1883, three years before its passage, one of my distinguished predecessors, Hon. A. X. Parker, then a Member of Congress, delivered a very strong speech in favor of regulating the manufacture and sale of oleomargarine, and showing in detail the necessity for such a law.

The act passed in 1886 was further amended March 2, 1887 (24 Stats., 440), establishing agricultural experiment stations in connection with the agricultural colleges established in the several States, and directing that experiments on the scientific and economic questions involved in the production of butter and cheese should be had. This act was further amended by an act of October 1 1890 (26 Stats., 567, 621), and still further amended March 3, 1899 (30 Stats., 1014, 1082). Then there was a general revision under the act of May 9, 1902 (32 Stats., 192) which provided, among other things, that all articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, and so forth, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage thereof, shall be subject to the operation and effect of the laws of such State or Territory or the District of Columbia.

Section 2 amended the first clause of section 3 of the act of August 2, 1886, prohibiting any artificial coloring that causes oleomargarine to look like butter, except as provided in section 4. Section 4 imposed a tax of \$600 per annum on manufacturers of adulterated butter, \$400 per annum on wholesale dealers, and \$48 on retail dealers; also a tax of 10 cents per pound to be paid by the manufacturer on adulterated butter and one-fourth of 1 cent per pound on process or renovated butter. In addition to this, a tax of \$50 per annum was imposed on the manufacturers of renovated or process butter.

This, in brief, as I recall it, is the legislation upon that subject. As experience is a great teacher, so it was found abundantly to be so in this particular case. What the dairymen and the consumer of genuine butter had demanded at that time was such a law as would compel the manufacturers of oleomargarine to sell their product to the consumer for just exactly what it was, and which at the same time would enable the consumer to know just exactly what he was eating. The producers and consumers of butter to-day are continuing their demand for such legislation, and they will be content with nothing else.

These various acts and the amendments thereto might with great propriety have been entitled "An act to raise a revenue for the support of the Government and to prevent the fraudulent sale of oleomargarine."

The laws of 1886 were found defective, chiefly, I think, owing to the fact that the tax on all oleomargarine, whether colored or uncolored, was the same, 2 cents per pound, which experience showed enabled the retail dealers to impose upon the consumer an article as butter which in fact was oleomargarine. Then it was that the law of 1902 was passed which contained the provisions hereinbefore stated, levying a tax of 10 cents per pound on oleomargarine colored, and one-fourth of 1 cent per pound on the uncolored. Experience has demonstrated that this law has not fully accomplished all that its friends hoped would be accomplished, and prayed for. It did not anticipate or reckon with the inventive genius of the age, nor did it appreciate the determination on the part of the manufacturer of oleomargarine to circumvent the law by such means as the law itself allowed. It did not, as in my judgment it should have done, prevent absolutely the coloring of oleomargarine with any foreign substance whatsoever, but did permit it to be colored in

imitation of butter upon paying 10 cents per pound tax, thus permitting it to go upon the market looking like genuine butter, and smelling and tasting so much like it that the average consumer was deceived. Again, it was in my judgment defective in not providing that each manufacturer of oleomargarine should file with the Secretary of Agriculture the formula by which it was manufactured, or a concise statement of the ingredients contained therein. For no sooner had this bill become a law than the inventive genius got to work to produce a substance allowed by the law which would have the effect of making oleomargarine look like butter.

Mr. Flanders, then and now assistant commissioner of agriculture for the State of New York, is the authority for saying that something like 22 patents have been taken out with the avowed purpose of accomplishing this very end, and how far they have been successful is seen in the results. Thus, the struggle has gone on, the dairymen contending for the right to sell their produce for what it is, and the oleomargarine manufacturers striving harder to sell theirs for what it is not. The issues to-day are the same as they were in the beginning, and are again submitted to your committee for solution. The question, and the only question, is, how can we compel by law the manufacturer of oleomargarine to sell his product to the consumer for just what it is and nothing else?

Several bills have been before you for consideration. None of them, in my judgment, except the McHenry bill in the House, either seeks to or does accomplish that end; but on the contrary they are designed to permit rather than to prevent the manufacture and sale of oleomargarine in imitation of butter. I shall proceed to a brief examination of some of the measures proposed. My friend from Texas, Congressman Burleson, has introduced a bill, H. R. 21674, which provides in substance for the repeal of all prior legislation regulating the manufacture and sale of oleomargarine, and offers a substitute therefor which, so far as this discussion goes, provides that the manufacturer shall pay \$600 per annum, the wholesale dealer \$120 per annum, and the retail dealer \$6 per annum; and at this point I must confess, Mr. Chairman and gentlemen of the committee, that I do not quite understand my friend's bill, and perhaps a shorter way would be to ask Congressman Burleson direct whether or not he intends by his bill to levy any future tax per pound on the manufacture of oleo.

Mr. BURLESON. A uniform tax of 2 cents a pound upon the colored and uncolored. It repeals the act of 1902, which repealed the act of 1886, and in repealing the act of 1902 it reinstates or brings back into existence the act of 1886, and I amend that in one or two particulars.

Mr. MALBY. I am obliged to Congressman Burleson for the information, because in reading the bill I was unable to satisfy myself as to whether he repealed the entire statute of 1886 and the statute of 1902, or not.

Mr. BURLESON. No; it repeals the act of 1902.

Mr. MALBY. Because that refers to the matter in page 2, line 18, as to the affixing of the tax-paid stamps, and I could not find any provision in his bill directly which retained the tax in any form, unless it was in the saving clause mentioned, at the bottom of page 2 and the top of page 3.

Mr. BURLESON. That is where it is.

Mr. MALBY. However, Mr. Chairman and gentlemen of the committee, so far as my suggestions go, as the representative of an agricultural district representing the dairy interests, it does not make very much difference whether the tax is 2 cents or 1 cent; the objection which lay to the law of 1886 was that it did not differentiate between one kind of oleomargarine and the other. Therefore, so far as the opportunity is concerned for the manufacturer or the retailer to perpetrate a fraud upon the consumer, it would remain the same, whether there was any tax on it or not; except in this, that it does leave it, if there is a tax of 2 cents a pound, under the control of the Internal Revenue Department.

The CHAIRMAN. Would you mind a question, there?

Mr. MALBY. No, sir.

The CHAIRMAN. Do you wish to have the committee understand that, in your judgment, the differentiation in the tax makes it easier to enforce the law?

Mr. MALBY. Well, I do not think that it makes it, Mr. Chairman, easier to enforce the law, perhaps. It would be difficult to just say whether it did or did not. But in my judgment it would not be easier to enforce the law where there is a difference.

The CHAIRMAN. The Commissioner of Internal Revenue was before the committee the other day and made the statement that the law of 1902 is much more difficult to enforce as a revenue proposition than the act of 1886, for the reason that the wide difference in the tax levied upon the colored and uncolored product furnished so great an incentive to fraud that it was almost impossible to prevent it or to expose it.

Mr. MALBY. I apprehend that that is correct, with respect to a portion of that statement at least. Of course it is difficult to do so.

The CHAIRMAN. Is not this the truth, Mr. Malby—and I ask you because I know you have had wide experience as a lawyer—that when you differentiate in regard to the tax you furnish two incentives to fraud? The first incentive is to commit a fraud upon the revenue by buying white oleomargarine, paying only one-quarter of a cent tax and clandestinely coloring it as if it had paid the 10-cent-a-pound tax, and being therefore able to sell it as colored oleomargarine at a higher price than would be just and fair if the coloring matter had not been put in it, thus defrauding the Government on the one hand. And does not the same incentive to fraud remain to sell it as butter; and is not the sale as butter made even easier by reason of the fact that the seller has colored his product to defraud the Government?

Mr. MALBY. In reply to that suggestion, Mr. Chairman, I was not in my presentation being very much concerned as to the difficulty which the Internal-Revenue Department had in enforcing the law. I presume that if a law is profitable to violate, those who seek to violate it will cause the Government all the trouble they can. But my proposition is that it matters not whether the Government is disturbed about enforcing the law or not; whether they find it easy or find it hard, so far as my position is concerned, it is really not of the slightest consequence. I am only concerned about the fact that the law should be enforced. It should be enforced, because it is apparent to everybody, and from the experience of the legal department of the Agricultural Department and their detective department it is

apparent, that this law is violated frequently. I shall speak of that matter a little further on, Mr. Chairman. The loss of revenue, in other words, does not particularly concern me.

The CHAIRMAN. Well, it does not particularly concern this committee; but if the law is so worded that the enforcement of it is difficult from a revenue standpoint, and we can correct that without interfering in any degree with the other object sought to be gained by the bill, ought we not to do it?

Mr. MALBY. Well, I will not take particular issue with the chair upon that matter, but what I shall have to say will be directed toward seeing that we do not turn our attention exclusively to the proposition of raising revenues for the Government and making it easy for the Internal-Revenue Department to collect the tax at the sacrifice of destroying the line of demarcation between oleomargarine and pure butter.

Mr. LEVER. Is it not a fact that the difficulty which the Revenue Department finds in enforcing the law is an evidence of the other fact, of the ease with which the law is violated and the fraud put upon the public.

Mr. MALBY. I have not the statistics upon the fact to show how many violations there have been, but I reply again, if they are doing it with ease and comfort and profit, something should be done to accelerate our judicial department of the Government to a point where that is impossible. The very fact that they are violating the law—and that there are frequent violations seems to be around this table admitted—goes to show their determination to place their product in the hands of the consumer for what it is not. That is the difficulty about it. Now, if we make it easier for them to put the product in the hands of the consumer for what it is not, why, I take it that the amount of product which would go would be augmented and increased in like ratio to the ease and comfort with which it was delivered. That is just what I seek to stop.

Mr. STANLEY. May I ask you a question right there?

Mr. MALBY. Yes, sir.

Mr. STANLEY. If a law can be enacted and such safeguards devised as to render it practically impossible to sell oleomargarine except for what it is, would you insist then upon penalizing the manufacture of oleomargarine by this revenue tax?

Mr. MALBY. Well, I will tell you, and I want to give a fair answer to my colleague in respect to that matter, if I could; he will pardon me for suggesting that in addressing committees and in addressing Congress, both he and I, and others, always prefer to answer a question with reference to a matter which is before us. Now, if my friend will produce the bill and submit it to me—such a bill as he thinks will accomplish that end—I shall be very glad indeed to go over it with him and discuss it with him.

Mr. BURLESON. But if it could be done?

Mr. MALBY. I think that matter is not before us. If you have any such matter in such a bill, I will discuss it.

Mr. BURLESON. That is the very matter that is before the committee at this time, as to whether or not you can prevent these frauds and reduce the perpetration of these frauds, and at the same time remove from a wholesome food product an oppressive tax. That is the very matter that is now before the committee.

Mr. MALBY. It is not before the committee, in my judgment. I differ with you.

Mr. BURLESON. It is not before the committee in the McHenry bill?

Mr. MALBY. I mean it is not in your bill. I mean that it is not in any other bill, save possibly the McHenry bill, and that may be subject to amendment. I am simply expressing my opinion about it. I am willing to say that I come here for my constituents and for the people similarly situated in this great interest, and I think my friend from Texas is representing his constituency, and he has a perfect right to express his views, and carry out, so far as he can, in law the notions of his constituents; but I do not care to pass finally upon any bill upon any hypothetical question which might involve legislation which I do not see in any bill before us.

Mr. BURLESON. You have not read the bill, then.

Mr. MALBY. Oh, yes; I have.

Mr. STANLEY. You speak of appearing for your constituents. I appreciate the position of my eminent colleague, and it is because I have such a profound faith in his judgment, and such perfect faith in his patriotism, that I propounded this question. Now, I am in statu quo with the gentleman.

Mr. MALBY. I suppose so.

Mr. STANLEY. I represent a dairy district. More than that, I am personally interested, in a way. My own family, on both sides of the house, have material dairy interests, and the passage of a bill affecting the price of butter would touch not only the people in my district, but would touch me possibly in the most sensitive place known about a man, the finances. At the same time, I believe that both the eminent gentleman and myself, in a matter as vital as this, must realize that there are interests that rise above either the personal aggrandizement of the individual, or even the personal peculiar prosperity or profit of a district. We must look, too, at the interests of millions of consumers.

Mr. MALBY. Well, I am coming to that.

Mr. STANLEY. I believe Mr. Malby will agree with me, because I know he is a patriot, that it is just that these two products should be differentiated in the market and should be sold for what they are. It is, at the same time, unjust that a genuine and wholesome food product which is cheaper than butter should be denied to people who want it and who need it, at a time when the cost of living is a very vital question. Now, if we can give the poor man, who wants it, oleomargarine, and so safeguard its sale that he shall not buy a pound of it without knowing exactly what it is by the exercise of the most ordinary discretion or judgment, if that can be done—and a great many of this committee believe that it can be done, and the revenue officials seem to be inclined to that opinion—if by very simple safeguards that you will readily comprehend, and by provisions surrounding the package we can protect the consumer, providing that it shall be sold only in the package and providing that no vender, wholesaler, jobber, or peddler shall ever be allowed under any circumstances to break that original package, so that we will guarantee that the man shall receive what he proposes to buy, just as he does in the purchase of tobacco or of whisky, because it is impossible to sell one kind of whisky as another, now—

Mr. MALBY. I do not know about that. [Laughter.]

Mr. STANLEY. I mean that the wholesalers of whisky do not put out anything but the kind of whisky that they propose to sell, and there is practically no adulteration of whisky in the distillery.

Mr. MALBY. No; not in the distillery.

Mr. STANLEY. It is practically only by the retailer; and it is the same way with tobacco. Now, if we can approximately protect the manufacture of oleomargarine and restrict the sale so as to fairly differentiate the products, would you then insist upon the imposition of a tax? Would it then have any merit except as a revenue measure?

Mr. MALBY. I will state to you frankly that the question of the amount of revenue, so far as I am personally concerned, in this matter cuts no particular ice at all.

Mr. LEVER. Right in that connection; we have had testimony before the committee from the officials of the Government charged with the enforcing of this law, and they say the tax is an incentive to fraud upon the consuming public. Why insist that this committee continue the tax?

Mr. MALBY. Well, I will go along, and if my friend will call my attention to the matter a little bit later, if I do not cover it, I shall be pleased to reply further. I may remark in passing, however, that I never knew a criminal statute that there was not difficulty in enforcing. My friend the commissioner of agriculture, Mr. Flanders, will tell you that in the State of New York we are spending \$1,600,000 a year in agriculture. A large amount of that money is being spent in the policing of the industry, so to speak, detecting fraud. While the people engaged in agriculture are as honest—I think fully as much so—as the rest of us who are engaged in other business in life, yet they all need watching, and we find difficulty in enforcing all agricultural laws in New York, and I presume that the condition is not peculiar to our State with respect to that matter.

Mr. STANLEY. Right there, and I will not disturb you any further. Do you not regard it also as rather a legal anomaly, if not a monstrosity, to attempt to add to the efficiency of a criminal statute by the aid of a tax? Would you be in favor of a tax on persons carrying deadly weapons, or would you be in favor of a tax on persons committing murder? Do you think a penal statute is helped by a tax?

Mr. MALBY. I think so, sometimes; and I think in this particular case, to answer my friend directly, that to place the manufacture of oleomargarine and other substances in imitation of butter under the Internal Revenue Department of the Government, and make it subject to their inspection and control, is one of the most important parts of this whole measure. As I have stated before, I am not quibbling about the amount, unless the amount of tax levied enables us to maintain the line of demarcation. Now, I am not in the administration of the law; therefore I can not tell you whether that tax of 10 cents is necessary to the proper enforcement of the law or not. I do not know whether it should be 20 cents or 5 cents or 2 cents, and I do not care what it is; but I do want it at that point where those charged with the administration of the law after years of experience have demonstrated that that is the point at which they can best enforce the law, which will indicate the difference between oleomargarine and butter.

Mr. LEVER. Will you permit me to ask you a question right there?

Mr. MALBY. Yes.

Mr. LEVER. When we read to you, for instance, from the report of the Commissioner of Internal Revenue a statement to the effect that this 10-cent tax is an incentive to fraud—increases the fraud—then why continue it?

Mr. MALBY. I will tell you. I have read that portion of the statement made by the internal-revenue collector, and, really, he does not substantiate his conclusions with a sufficient amount of detailed statement so as to enable me to come to a proper conclusion or reach a conclusion from what he has stated.

The CHAIRMAN. A question I would like to have you consider before you conclude is that of the advisability of a difference in the tax. I was not arguing for a reduction or an increase in the tax. For the purposes of this argument, I do not care what the tax is, but I am in entire good faith in desiring your opinion as a lawyer upon the advisability of having the tax on both kinds of oleomargarine, regardless of what that tax may be.

Mr. MALBY. Mr. Chairman, in my opinion it is correct that the law of 1886 was a failure. If that was a failure, after years of experience running from 1886 to 1902, if those upon whom the enforcement of the law was enjoined found that that led to untold frauds, why, I would not think it advisable, Mr. Chairman, to go back to it.

The CHAIRMAN. My understanding of the position of those who advocated the present law, which at the time of its passage was known as the Grout bill, was that the old law had failed, not because the tax was uniform on both colored and uncolored oleomargarine, but because there was no color line drawn, no penalty imposed on the sale of colored oleomargarine, and no prohibition upon its coloration.

Mr. MALBY. I presume that they presented that argument, among others, but we have discovered that all of our distinguished committees up to now have failed to write a law by which the consumer knew what he got.

Mr. BURLESON. Now you have written one in New York where the consumer knows what he gets, have you not?

Mr. MALBY. Well, subject to those who circumvent and violate the law, and I presume that that will always be so. The millennium not having arrived, of course you can only do the best you can. But I was speaking of the impropriety, perhaps, of going back to a proposition which had been tested for several years and found wanting for one reason or another.

Mr. LEVER. Let me ask you this question—

Mr. MALBY. If you gentlemen will permit me to continue a little ways, I would rather finish my statement, if you please, Congressman, and then if you have any questions, fire away and I will be glad to answer them if I can; but I state to you that I do not pretend to be an expert upon this subject.

Mr. LEVER. All right.

Mr. MALBY. Our colleague, Congressman Lever, of South Carolina, has introduced the bill H. R. 24651, which in the enacting clause thereof provides for the repeal of all taxes on oleomargarine as fixed by the act of August 2, 1886, as amended, and the act of May 9, 1902, and which in detail contains all the objectionable features of the Burleson bill and a few more, and imposes such conditions upon the manufacture and sale of butter—not being content quite to deal with the subject of oleomargarine—as would tend to discredit the

butter, and by section 9 thereof might subject a large portion of all the butter manufactured in the United States to forfeiture, because it provides for the forfeiture. Time will not permit me, however, to point out all the imperfections in this bill. I think it quite sufficient to say that its enactment into law would necessarily lead to the destruction of the butter industry in the United States.

Our friend, Congressman Goebel, of Ohio, has introduced the bill H. R. 24008, which also provides, among other things, in section 17 thereof, for the repeal of the laws of 1886 and of 1902, and is no less objectionable, in many of its features, than the Lever bill.

Congressman Bartholdt, of Missouri, has introduced the bill H. R. 20986, also repealing certain sections of the laws of 1886 and 1902, which levy an internal-revenue tax on oleomargarine, and otherwise greatly liberalizing the sale of oleomargarine, and at the same time making it much more difficult to manufacture and sell the genuine butter. It thus clearly appears, from an examination of these various bills, that no adequate provision is made for the protection of the consumer of the genuine butter, or those who desire to consume it, except in the bill introduced by Congressman McHenry, of Pennsylvania; but, on the contrary, the color line—and now my friends will pardon me if they think there is any levity in this, because there was not intended to be—the color line for once in this country is attempted to be obliterated, and that, too, notwithstanding the fact that it serves the consumer with the only guide by which he can determine the difference between the real butter and the spurious article. Some of the reasons which have been assigned why oleomargarine should enjoy the coloring privilege equally with butter might cause merriment if the subject was not so serious in its character. It is admitted that the injection, for instance, of coloring matter does not make oleomargarine more healthful or more wholesome or more palatable. What, then, does it do, really?

Mr. BURLISON. It is put in for the same reason that they put coloring matter into the butter.

Mr. MALBY. Well, they do not put coloring matter into butter all the time. They are not doing it now in any portion of this broad land.

Mr. BURLISON. They do not do it in the months of May and June, possibly, but they do in other months.

Mr. MALBY. Oh, no.

Mr. BURLISON. Yes; they do.

Mr. MALBY. Oh, my friend is mistaken about that.

Mr. BEALL. Why do they do it any time?

Mr. MALBY. Why do they do it?

Mr. BEALL. Yes.

Mr. MALBY. I presume they do it in order to create a uniform color for butter throughout the year. You know very well that the color which nature puts in butter in the country during the months of May, June, July, August, and September, and part of October, if not all of it, can not be extracted by any known process. It is there by nature, and it can not be taken away. In order that butter may have a uniform color to those who use it—

Mr. BEALL. Why should it have a uniform color?

Mr. MALBY. I am just telling you, Congressman, because people who really use butter do not, perhaps, particularly care to have it vary in color; they do not like to have it streaked, part white and part yellow;

they do not like to have it yellow to-day and white to-morrow. But let it be one color and they would be satisfied with it. That, I apprehend, is the one reason, and another good reason has grown up recently, and that is, in order that there may be some particular distinction between the genuine article and oleo. Since 1886, since the manufacture and sale of oleomargarine has become such as it has, that now furnishes one of the best reasons in the world, to my mind, why it should be continued.

Mr. LEVER. Why would it not be better to have butter a uniform white color, Mr. Malby?

Mr. MALBY. I have just explained, my dear friend, that that is impossible.

Mr. LEVER. Butter, as a matter of fact, is white about eight months in the year, is it not?

Mr. MALBY. No; you have to go farther north than I am to find that, and I live on the border.

Mr. LEVER. How many months of the year has it that yellow color?

Mr. MALBY. During May, June, July, August, September, and October.

Mr. LEVER. Nearly half of the year?

Mr. MALBY. Yes; and some in November.

The CHAIRMAN. Had we not better let Mr. Malby finish his statement without further interruption?

Mr. MALBY. I should prefer to do that. I was just saying that the introduction of coloring matter into oleomargarine does not make it more healthful or more wholesome or more palatable. What, then, does it do? It does make it look like the genuine butter, and thus—I do not quote my friend Burleson, but I quote the substance of what he and some of his associates have stated—and thus it is claimed to satisfy the artistic eye and the vanity of the would-be purchaser, and at the same time enables him to deceive his inquisitive neighbor, who, of course, would not listen to the order which he gave, but would critically examine the article which he purchased; and thus he would become ashamed of that kind of proceeding. That, I think, is borne out by the testimony of one or two witnesses. But because of his peculiar fondness for the yellow oleo, should we have a law by which untold frauds could be successfully perpetrated not only upon the one who might at any time desire to purchase the real butter, but upon all those who eat butter and do not desire to eat oleomargarine, and at the same time ruin one of the most important industries in which the people of this country are engaged? Might we not inquire with some propriety when it was that we became so partial to yellow, and would not the answer be, so far as this hearing is concerned, not until the oleomargarine manufacturers wanted to make it in imitation of butter for the sole purpose of selling it as such? We do not complain that the tallow candle is white. It looks just as well and burns just as brightly as though it were yellow. We do not complain that the lard which we use in the kitchen is white. If it were yellow, our good housewives and our cooks would send it back. But it is insisted that oleomargarine must be yellow to please the eye and satisfy our vanity.

The only remaining reason for this change is that it would discourage crime, and that subject I have discussed very briefly. That is, they say that the manufacturer and retailer would not violate a law

if there was none. Well, I concede that that is so. And if the tax was uniform, whether colored or not, they would not violate the law so often as they do now, as there would be no temptation, there being no distinction; and thus we are asked in the interest of morality and respectable conduct to repeal or modify this law in that respect. Just how much this scheme would contribute to the great moral uplift, when it is understood that these changes would enable these same people to perpetrate unlimited frauds upon the American people, I leave it to you to decide. I presume that if the laws punishing burglary and larceny were repealed, it would be conceded that no one would be guilty of these crimes, or punishable, either one; but I doubt very much whether any sane person can be found who believes that repeal of such statutes would improve the moral uplift of the country.

The argument which has been presented is that there would not be so much violation of the law if there was not so much necessity; but the fact that they do violate a law which is highly penal in its character is conclusive evidence that any relaxation of the law leads to greater sales of the product. As I stated before, the sales of the product under a low tariff, or one making them uniform, would be exactly in proportion to the ease and the comfort and the safety with which the law could be violated, if at all. People are not apt to violate a law which is highly penal; not nearly so apt, at least, to violate a law which is highly penal as if the law is of a trifling character. If the penalty is \$10 for violating a law, I apprehend there will many more violate it than if the penalty was \$1,000. The reason for extended punishments for crime is that very logic. We punish murder with death or life imprisonment; for burglary in the first degree, twenty years' imprisonment in our State; and for rape and higher crimes, even to forty years of imprisonment, the idea being all the time not so much, perhaps, that the person himself should be punished, but as a warning to all evil doers of that character that if they violated the law they must await a terrific punishment for its violation.

Now, I take it that has been the experience of human kind since penal statutes took effect. We must make the penalty not only to fit the offense, but we must make a penalty sufficiently severe so that people will dread the commission of the crime. I do not know, as I said in the beginning, whether the tax should be 10 cents a pound on oleo, or 20 cents, or 5 cents, but when the experience of our departments has arrived at that point where they can tell us, then it will become, I think, the duty as well as the privilege of this committee to adopt such lines. But when you ask me again whether there should be any line of demarcation, I say yes, there should be, and it is in the tax. I doubt whether there would be a single pound of oleomargarine manufactured in the United States in its original form of white if you should obliterate the difference in the tax, because I take it that all the time there would be a chance, at least, of the manufacturer and the retailer placing it in the hands of innocent consumers for the real article instead of for just what it is.

I do not think that it is worth while to talk to sensible men about the object of our friends who manufacture oleo. I do not think that there is any use of clouding the issues. I think it is apparent to every student of affairs who has given any attention to this subject that the great object sought to be attained is the oppor-

tunity to enter a market—the butter market—with an article looking and tasting and smelling as much like butter as possible and permitting it to be retailed as such. I have no particular quarrel with the manufacturers of oleomargarine. I want to call the attention of the committee to the fact that the butter trade-mark is yellow, and it is as old as the cow itself, made so by nature, and in the interest of honesty and fair dealing it should be ever recognized and preserved. It should no more be counterfeited than the currency of the United States, or any other trade-mark protected by the laws of our country. We might as well—and I think better—repeal all our laws in relation to trade-marks which distinguish one article from another and protect the consumer from fraud as to take away the trade-mark from butter which nature itself has given it. My attention is called, in illustrating this point, to the trade-mark on Bass ale.

I might mention that I am not advertising Bass ale in particular, so I will mention another, the one which made Milwaukee famous; and still another, which is making St. Louis famous, as they claim. I am reminded also of seeing a picture in the papers of a kindly, motherly countenance, under which was the legend, "Mother Winslow's soothing syrup." There are many other labels authorized by law, the only object and purpose of which is to protect the real article as against spurious intruders. Our country, and every civilized country upon the face of the earth, has recognized that. The old cow has a trade-mark of her own, which is world-wide, which is being attacked by 22 different patents, and I do not know how many others, who are using the patents under a positive guaranty that they have circumvented the law and that they have produced an article which resembles the product of the old cow, and by the legislation here attempted, in any of these bills except the McHenry bill, the effort is being studiously made to wipe out that nature's trade-mark, and we positively object.

My friend from Texas, Mr. Burleson, labors hard to prove that oleomargarine is a pure, wholesome, and nutritious food, and I regret to say that he has offered some information to show that butter is not. To prove his contention as to the wholesomeness of oleomargarine he has called on a witness, Mr. Henry C. Pirrung, president of the Capital City Dairy Company of Columbus, Ohio. Just why he calls it a "dairy company" instead of an "oleo factory," as it is, I leave it to you to conclude. If I were looking over a catalogue and I wanted to buy a tub of butter and I saw a sign "Mr. Henry C. Pirrung, president of the Capital City Dairy Company, Columbus, Ohio," that being located in Ohio, and I having an abiding faith in the integrity of the people, I might possibly write to him for a tub of butter. From that sign I would not expect that he was selling oleomargarine.

Mr. Pirrung gives a pen picture of his dairy company's building, and proceeds to describe the ingredients used in the manufacture of oleomargarine, as follows. First, pure butter, I think he said about 7 per cent. Next, oleo oil—neutral—meaning thereby the oil from the leaf of the pig. You see these ingredients, gentlemen, are wrapped up in as fine tinsel paper as it is possible, to please the taste. It is along the line of having it yellow. Neutral is one ingredient. I must admit that in my boyhood days I never regarded leaf lard as neutral, but in these days of oleo it has got a new name. The quan-

tity of neutral used in the manufacture is placed at 10 per cent, and while this statement of his would seem to be sadly at variance when applied to the whole quantity produced in this country, as shown by Mr. Gage in his report of June 30, 1900, and it is sadly at variance, I am not personally informed as to the ingredients or proportions of each which go to make up the whole, and I will not attempt to discuss whether or not oleo is wholesome and fit for human consumption, as the advocates of this measure would have us believe, or not. You will get that information, I know, from people who are competent to judge.

Mr. BURLESON. We have already got it.

Mr. MALBY. You have already got it? Well, then, there will be no waiting. I may, however, be permitted to call your attention to the fact that the Twenty-fifth Annual Report of the Bureau of Animal Industry, which is for the year 1908, I think, shows that there have been discovered 706,460 tubercular hogs in the year 1908, which appears to be a most alarming increase over former years. How many there were that they did not discover, I do not know. One of the chief ingredients in the manufacture of oleo is lard—neutral. Neither am I prepared to admit that the process of manufacturing oleomargarine is such as to destroy the tubercular germs, and in particular to render the product a wholesome and a nutritious one.

Mr. BURLESON. Right on that point, do you not think that the Government ought to carefully supervise and inspect it, in order to protect the health of the people?

Mr. MALBY. I am going to refer to that a little further along, and if I do not quite cover it, I will be very glad to have you ask me a question.

Mr. BURLESON. I just wanted your personal opinion as to whether you thought that the Government ought to carefully inspect it.

Mr. MALBY. Inspect oleomargarine?

Mr. BURLESON. Yes; carefully inspect oleomargarine, so as to protect the health of the people.

Mr. MALBY. I have not any objection to their inspecting a product which they regard as sufficiently unwholesome to endanger health or life.

Mr. BURLESON. Then you think that the Government should inspect it?

Mr. MALBY. I think all the products which go into the human stomach to such an extent as to injure health and life should be inspected.

Mr. BURLESON. Would you object to the inspection of butter, also, for the same purpose, to protect the health of the people?

Mr. MALBY. I would certainly object to the inspection of butter, on any information which I now have, and I will tell you why in a few minutes.

Mr. STANLEY. You speak of tubercular hogs. You would not contend that the fat of an animal contained tubercular bacilli, would you?

Mr. MALBY. I am coming to that. You know that I think a tubercular hog is just as objectionable as a tubercular animal of any other kind which is condemned and regarded as unfit for human consumption. I repeat that neither am I prepared to admit that the process

of the manufacture of oleomargarine is such as to destroy completely the tuberculosis germs in the material from which it is made.

Mr. BURLERSON. You do not agree about that, then—

Mr. MALBY. I will tell you in a moment. If you will just let me finish, then I will answer any questions I can. I am pretty nearly through.

Mr. BURLERSON. Any time you choose.

Mr. MALBY. Tuberculosis is a disease of decay, and the whole system is affected. I feel quite sure that if a beef or a hog has been found dead after thirty days that no amount of heat in trying out the lard and the tallow would make the product wholesome, nutritious, and fit for human consumption. Now, I do not know whether any of these 706,000 tubercular hogs were taken out and buried or not. I do know that whatever system of inspection obtains, more or less of them get through. Not knowing whether they were used or how they were used, of course I can not seriously comment upon it, but I have not heard of any extensive burying grounds for tubercular hogs in this country anywhere up to the present writing, or for cattle either. Perhaps the ingredients used by Mr. Pirrung are better than those in general use, and if it is so I congratulate him, and he is entitled to credit. I do, however, desire to call your attention to the ingredients mentioned in a bill introduced by Mr. Lever, who attempts to rechristen the product and name it "Margarine." I suppose by the time it got down to the consumer it would be plain "Mag," or something like that.

Mr. LEVER. "Marge." [Laughter.]

Mr. MALBY. Just why we are getting away from the name, I can clearly see; because to-day with 90 per cent of all the householders in the United States it stands as a discredited article; and I congratulate Mr. Lever upon his scheme of at least changing a name which to the honest householder has become odious throughout the length and breadth of our land.

Section 1, however, of Mr. Lever's bill provides:

That for the purposes of this act—

and we are talking now about the cleanliness of oleomargarine—

That for the purposes of this act certain manufactured substances, certain extracts, and certain mixtures with butter or with milk, heretofore known as oleomargarine—

I would like to have the members of the committee remember these different things—

oleo, oleomargarine oil, butterine, lardine, suine, and neutral lard extracts, tallow extracts, tallow, beef fat, suet, lard, lard oil, vegetable oil, intestinal fat, and offal fat—

I presume that some of those 706,000 hogs would come under that—

including all compounds or mixtures of what heretofore has been known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral lard extracts, tallow extracts, tallow, beef fat, suet, lard, lard oil, vegetable oil, intestinal fat, and offal fat, with or without coloring matter, made in imitation or semblance of butter, or whether so made or not, if sold or offered for sale, or intended to be sold or offered for sale as butter or a substitute for butter, shall be known and designated as margarine.

Well, certainly Margarine, if she is going to be responsible for all of that, is handicapped in the beginning. That indicates to my mind, in all seriousness, gentlemen of the committee, that whatever the

gentleman from Ohio who represents the Capital City Dairy Company puts into his oleomargarine, at least the law would recognize the putting in of many other things than apparently are found in his cleanly factory, and if he has left anything out of his enumeration, it was a mistake.

Again, my friend Mr. Burleson calls attention to the fact that the crime would not be so great after all, even if his bill did have the effect of ruining the business of the dairy farmer in this country, for he points out that only 359,576 persons, all told, are engaged in that industry in the United States. Of course 359,000 persons is a mere bagatelle when we are talking about oleo, but it would seem an astounding proposition to do anything which would interfere with their prosperity. I would, however, call attention to the fact that this probably means the heads of families scattered all over the Union and engaged in this industry, because conditions are such that the lands occupied by them are not as a general rule suitable for other agricultural purposes. For the most part they are small farms, as they are in my district, averaging perhaps 125 acres per farm, and if dairy farming was crippled these farmers undoubtedly would have to quit. There are advertised in the agricultural paper at Albany of which my friend Mr. Flanders has charge hundreds and hundreds of farms in the Empire State which are abandoned. Thousands of farms are for sale for a quarter of what it cost to put the buildings on the farms. And why? It requires no answer.

I would also call your attention to the fact that these dairy farmers are not engaged exclusively in this particular business. They raise a large number of horses, sheep, and hogs, as well as an extensive line of poultry. They raise wheat, corn, rye, oats, barley, and hay, in addition to garden truck and vegetables, to a large extent.

At the present time the cry is going up throughout the Union that the cost of living is excessive, and it is well known that it is with the greatest difficulty that we are able to keep the farmers' sons and daughters on the farms. Is it wise or prudent to take any steps which would lessen the profits or attractiveness of these tillers of the soil, the products of whose labors we so much require under present conditions; and would it not be a far better policy for the National Congress to increase their opportunity for profit rather than to take a chance of decreasing it? The net income of these tillers of the soil is not great, and never has been, but small—hardly enough for an existence. Surely it will be conceded that there should be no law passed which will increase the burden which now bears so heavily upon them.

There is but one other subject to which I desire to call your attention. There has been injected into this discussion, I think for no adequate reason, the fact that pure butter may contain tubercular germs, and a portion of the report of the Department of Agriculture is cited as sustaining their contention. I am not a chemist, Mr. Chairman, or possessed of sufficient information to be able to say whether or not this is true. I may be permitted, however, to remark that if it be true our scientific men have been a very long time finding it out, and I apprehend that before the end has come, in this as in all other matters of scientific knowledge, good authorities will be found on both sides. So far as I am able to ascertain it is not charged by

this department or by anyone else that it has discovered any one case where tuberculosis could be traced to the use of pure butter. If, indeed, it contains tubercular germs, they must exist in such small quantities, in my judgment, as not to have the slightest effect upon the vast majority of human kind. I might suggest that tubercular germs are found everywhere, but not to an alarming extent. They are found in the free air we breathe, and they are found in the water we drink; but for the first time, so far as I am advised, it is claimed that they also exist in butter.

Doctor Trudeau, who is the most famous tuberculosis physician in this country if not in the world, residing at Saranac, N. Y., who has succeeded in preserving his own tubercular life for more than twenty years, attributes the taking of tuberculosis by human beings more to the presence of sputum on the streets of our cities than anything else. He is one of the highest experts in the world. He was here in Washington last week. He did not suggest that there was any danger of taking tuberculosis in pure butter. I wonder why these great scientists who have been engaged in the work itself, not those who potter around in some back office trying to find a microbe, but those who have devoted their lives, energies, and intelligence to the subject, like Doctor Trudeau, have not called the attention of the ninety millions of people in our own country and the hundreds of millions of people in the world at large to the fact that pure butter was dangerous, because it might contain a germ which would result in their destruction. That is just a suggestion. Until it has been proven beyond a reasonable doubt that some person has had tuberculosis by reason of consuming butter, I am absolutely opposed to placing this great industry under any department, which could not but have the effect of seriously interfering with the industry itself, when it is of the utmost importance to the whole country that it should be encouraged.

Now, gentlemen, I thank you very much for your kind attention. I would be very glad indeed if at some future time I could have an opportunity to address you further.

The CHAIRMAN. We regret that there is not more time at present, Mr. Malby.

Mr. MALBY. I should be glad to continue longer now if the committee could sit longer.

Mr. BURLISON. Yes, but we have got to go to the House now.

(After informal discussion as to adjournment, the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

Mr. FLANDERS. I would like to make a request as to the rest of the speakers on our side, to the effect that as they are not going to speak at great length, they be allowed to deliver their papers or their remarks before questions are asked.

The CHAIRMAN. The chair will permit them to proceed without interruption.

Mr. FLANDERS. I will introduce Mr. Giles, of New York, who is secretary of the State Grange, who represents the State Grange, composed of 90,000 grangers, and who will speak on the butter coloring.

STATEMENT OF MR. W. N. GILES, OF SKANEATELES, N. Y.

Mr. GILES. Mr. Chairman and gentlemen of the committee: The people are entitled to know what they get. In the present controversy, of the oleomargarine manufacturers, on the one hand, and the dairy interests, on the other, the people, the real parties interested, are apt to be overlooked.

This subject that is attracting your attention now is meant to settle this question, not of special privilege to a manufactured product, nor special protection to a natural product, but of the rights of the people, and from no other standpoint can it be intelligently discussed; a line of demarkation must be clearly drawn between oleomargarine and butter, that the people, the consumers, shall know beyond a shadow of doubt or a possibility of substitution just what they are buying or using.

This legislation will have to come sooner or later; it is too big, too grand, too necessary, too important, to meet any other fate.

The Grout law does not accomplish all we seek, but it must not be eliminated, it must not be abridged, it must not be weakened; it must be enlarged, broadened, and strengthened, made more effective, made to do what it was originally intended to do; it is not a tax on a legitimate article of manufacture, it is not a tax on oleomargarine, it is simply and only a tax upon fraud and deception; for where no fraud or deception is practiced no tax is levied, or practically none, hence it comes in poor grace for any interest to complain of this hardship, for it is no hardship.

This line of demarkation that we have suggested must be established, and just what Congress is going to do this work and receive the credit we do not know, but trust it may be the present one.

A proper surveillance of butter and oleomargarine and necessary restrictions that may have to be placed upon both of these articles may be difficult to obey and work some hardships. This, however, does not affect the justice of the theory that the buyer is entitled to just that information and just that protection.

While the establishment of an arbitrary standard that should forever make it impossible for the one to masquerade as the other might make it difficult for some manufacturers to obey the law, it would not be impossible, and the rights of the consumer are of so much greater importance than the convenience of the producer, that the latter should be made to bear whatever burden it is necessary for the law to impose.

Every article of manufacture or commerce is subject to competition, and the "survival of the fittest" is a natural law that can not be evaded.

Lard found a formidable competitor in cottolene, but so far as we are informed cottolene was never put upon the market as lard, but came out boldly and honestly in the open, proclaimed itself what it was and what it could do, and upon its own merits established itself, and to-day many a housewife who in the early days of cottolene looked upon it with a good deal of prejudice now uses it in preference to lard, and cottolene is now enjoying a lucrative sale and doing its part in the economy of household supplies, and if it is usurping the place formerly held by lard there can be no honest criticism of its existence.

We have recently learned that cotton-seed flour is a healthful, nutritious, and quite palatable article of diet, nearly or quite equal to rye flour, as such, it is and should be quite welcome, so long as it is sold and served as cotton-seed flour, but if it should be sold as rye flour or an adulterant of rye flour, then it should be placed under the ban of the law, and legislation should be at once enacted that should legally confine it to the province to which it morally belongs. If the people desire cotton-seed flour they should by all means be allowed to use it without restriction, but if they want rye flour they should be protected in that right, and this position we believe can not honestly be questioned by you gentlemen or by any sophistry of reasoning that might be adduced.

The same analogy holds true between oleomargarine and butter.

Oleomargarine standing upon its own merits and seeking a place for itself is legitimate so long as it is wholesome and healthful, and if it establishes itself, even at the expense of other articles of food, in the public mind and appetite its position can not be honestly assailed, and if it proves itself the fittest then it will survive, even if it results in putting the cow into "innocuous desuetude," notwithstanding all the poetry and romance, all that can be said of the cow as the agricultural savior of the country; but that oleomargarine manufacturers are not willing to allow it to stand upon its own merits is evidenced by their many subterfuges to place it in place of and to sell it as butter, by adopting all the dairy names and dairy nomenclature, dairy forms and dairy color. You do not require proof of this, as one of the manufacturers who appeared before this committee stated that the name of his company was Capitol City Dairy Company, and another unblushingly named one of their brands Holstein, that their article sold better the nearer it resembled butter, and yet, strange reasoning, he stated that oleomargarine was better and more desirable than butter. Since when was it deemed wise to make a superior article in imitation of an inferior to obtain a market.

The honest manufacturers and venders of oleomargarine have nothing to fear from a permanent line of demarkation, for in selling for what it is, this could work no injury, and if their product is better, more wholesome, more cleanly than butter, then they need it to protect their business from the unscrupulous dairyman.

The 10 cent tax hurts no one, for he who is not substituting is not paying it, and if he is substituting he can easily afford to pay it, the only injury is, indirectly to the unsuspecting consumer who if the substitution is made may be paying 30 cents for a 20 cent article.

The only line of demarkation that can be permanently established is that of color, therefore upon this line you must act, to give the desired relief, it is plainly evident to you, and to all who will take a disinterested view of this subject that yellow is a distinctive prerogative of butter.

Naturally the cows freshened in the spring or early summer and their season of greatest usefulness is when the grass is young and green, and its succulence by natural chemical process gave to the resultant butter a deep yellow color, this of course varying by breed and other conditions, the cows natural period of lactation in those early days only covered the season of fresh feed, and as the pastures dried up and withered, and she was forced to resort to dry feed, the color faded from the butter, and her season of usefulness was over

and she went into winter quarters, and the butter supply, largely because it was not yellow, was stopped, and the consuming public had to depend upon packed butter, or butter that was made in the season of yellow butter and then stored for the season when butter could not be so made. To lengthen the season and still make a presentable and attractive butter, substitution of different succulent foods was provided, but with it all it was necessary to use coloring matter, and for over fifty years the use of coloring matter has been known of and practiced in the dairy—I say fifty years, for my memory goes back that far, and I speak from personal knowledge—that it was used much longer I am assured but have not the historic knowledge to state. The favorite and principal article used in those days was a decoction of grated yellow carrots, dissolved or incorporated with a given quantity of milk, and this was added to the cream in the churn just previous to its separation into butter. The time of using such coloring dates far back of the discovery or invention of oleomargarine, thus proving conclusively the fallacy of the statement made before you that the “coloring of butter by dairymen followed the manufacture of oleomargarine” the coloring of butter long preceded the making of oleomargarine. We have authentic proof that a manufactured butter color was sold twelve years before oleomargarine was known of.

Yellow is the dairyman’s right by original discovery and long years of undisputed use and he should be protected in that right.

THE NATURAL COLOR OF BUTTER IS YELLOW.

The natural color of oleomargarine is white, and it should be sold as such. That it is white is proven by the manufacturers. Before this hearing they have stated to you that they not only can make it white, but a very large proportion is so made, and that the best oleomargarine is white.

Good dairy milk and cream is a component part of oleomargarine. A less amount was used previous to 1902, but when the color distinction was established, more was used. This was admitted here, thus emphasizing the fact that it was done to acquire more of the appearance and color of butter, thus demonstrating more forcibly than ever that the success of the oleomargarine business depends upon their ability to counterfeit a legitimate article, and as your province lies particularly in the elimination of counterfeits, it would appear to us that you can only rise to your high privilege by enacting at this present session a law so plain, so clear, that the line shall be established, and the manufacturers of oleomargarine should be compelled to do what they here profess to be willing to do, viz, sell their goods upon their own merits and to their own customers; and if under these conditions they can succeed in making our customers theirs—with the full knowledge and consent of those customers—we by the law of nature abide the result.

In this controversy it is not so much a question of which is the better article or what particular interest, aside from the public’s, you shall favor; you are not to determine which are the “sheep” and which are the “goats,” but you are to separate by an adequate law the sheep from the goats, and put up a fence so secure, so strong, so high, that they shall forever remain separated.

Mr. BEALL. I was not here when you began, but are you a dairy-man?

Mr. GILES. Well, to a certain extent. I am in the creamery business more particularly.

Mr. BEALL. What State are you from?

Mr. GILES. New York.

Mr. BEALL. I noticed in your statement that it contained a suggestion that, in your opinion, legislation was necessary in order to keep the oleomargarine manufacturers from disposing of their product for something other than what it is.

Mr. GILES. Yes, sir.

Mr. BEALL. Do you think that that practice prevails to any extent among oleomargarine manufacturers?

Mr. GILES. Now, let me understand you——

Mr. BEALL. By the manufacturers of oleomargarine. Do you think that they dispose of their product for butter or for anything other than oleomargarine?

Mr. GILES. It is my impression that they do.

Mr. BEALL. Have you any evidence of that fact?

Mr. GILES. Such proof as has been brought out before this committee by the representatives of the internal-revenue department. We have the figures of the amount of oleomargarine manufactured, and we have also the figures as to that portion that is paid.

Mr. BEALL. From that do you draw the conclusion that all that does not pay the tax of 10 cents is manufactured and sold for anything else than oleomargarine?

Mr. GILES. I imagine it must go to the consumer for something else than oleomargarine.

Mr. BEALL. With reference to your statement as to the manufacturer. Are you not willing to concede, as I think the testimony here conclusively shows, that so far as the manufacturer is concerned he manufactures his product and disposes of it as oleomargarine? It is manufactured under the inspection of the United States Government. He could not dispose of it as anything else than oleomargarine without violating the internal-revenue laws, could he?

Mr. GILES. I presume that is true: yes.

Mr. BEALL. Isn't it a fact that so far as the manufacturer of oleomargarine is concerned, that he disposes of it as oleomargarine; that it goes into the hands of the wholesaler or the jobber as oleomargarine?

Mr. GILES. Yes; but the contention that I undertook to establish here, and want to be understood as establishing, is that the final end of the product shall be for what it was first manufactured and first sold, and if that is not the case——

Mr. BEALL. I agree with you there, but I thought that your statement indicated that, in your judgment, the oleomargarine manufacturer was responsible for fraud?

Mr. GILES. Not entirely; no, sir.

Mr. BEALL. And if there is any deception?

Mr. GILES. I used the word "vender." I don't care which one it is. But it is an accepted fact, I think, as brought out by this hearing and as we believe and as the retail grocers contend, that they desire to make it like butter so that they can sell it in imitation of butter.

Mr. BEALL. In your judgment is the only means of preventing that fraud the prohibition of putting coloring matter into oleomargarine?

Mr. GILES. Oh, I would not want to say that that is the only one. It appears to us that this tax upon the article that is made in imitation of it should protect any being made in imitation.

Mr. BEALL. As a dairyman, of course, you are interested in the production of butter?

Mr. GILES. Yes, sir.

Mr. BEALL. But your interest does not carry you to the extent of wanting to destroy the oleomargarine industry?

Mr. GILES. No, sir; my interest is that we do not want the butter business destroyed.

Mr. BEALL. But you want to invoke the power of Congress——

Mr. GILES. I undertook to make it clear in my statement.

Mr. BEALL. Well, you want to prevent the butter business from being destroyed?

Mr. GILES. Yes, sir.

Mr. BEALL. If it can be destroyed by legitimate competition, you do not think——

Mr. GILES. We hold up our hands; yes, sir.

Mr. BEALL. That is what I am trying to get at. If oleomargarine be made, and can be sold, as oleomargarine, and such safeguards are devised and thrown around its manufacture and sale as will prevent its sale for anything else than oleomargarine, that is as far as you would ask, isn't it?

Mr. GILES. That is what we are asking; that is, we ask that it shall go to the consumer in that way. We don't ask that the oleomargarine manufacturer may make it as oleomargarine, and sell it to somebody, some middleman, to pass it along as butter. We want protection that goes all the way through.

Mr. BEALL. You ask it from the time it is manufactured down to the time that it leaves the hands of the retailer and goes into the hands of men for consumption?

Mr. GILES. That is not far enough; no, sir.

Mr. BEALL. You want the law to go beyond the retailer?

Mr. GILES. Yes, sir.

Mr. BEALL. To go into the household?

Mr. GILES. We want it to go to the mouth of the consumer.

Mr. BEALL. Right into the hotels and boarding houses. You don't want the ordinary housewife to buy oleomargarine and palm it off on the unsuspecting family as butter?

Mr. GILES. I don't think so. Somebody here, since the hearings began, said that the poor man wanted the privilege of making his guests think that he has as good butter as his neighbor.

Mr. BEALL. Do you indorse that?

Mr. GILES. No, sir.

Mr. BEALL. It is not, then, for the protection of the housewife or the head of the family that you want this law, providing some means can be devised that will protect the head of the family in the purchase of the oleomargarine?

Mr. GILES. I believe there is a limit to which our police privileges should not go in the household.

Mr. BEALL. If such safeguards can be thrown around it that the ultimate purchaser knows what he is getting, knows when he asks for

oleomargarine that he is getting only oleomargarine, and knows when he asks for butter that he is not getting oleomargarine——

Mr. GILES. I can not give you an affirmative answer until you change one word there. I want you to go beyond the purchaser and get to the consumer.

Mr. BEALL. I was coming to him. If it can be protected down to the hands of the ultimate purchaser, then the only other class of people that could be defrauded would be those who might consume that product in boarding houses and hotels. Can you think of anybody else?

Mr. GILES. Perhaps not, from these questions that you are putting, but the main point that I am trying to make clear, the main point of contention that we have now, in fact—we have no particular quarrel over any business. We have got to stand on competition, and we want the Danish law, the law so far as we have been able to learn the law in foreign countries, in the selling of oleomargarine in semblance of butter.

Mr. BEALL. You don't want oleomargarine sold in the color of butter, even if the purchaser knows that it is oleomargarine, do you?

Mr. GILES. Yes; we agree on that. But let me be understood. Of course I am not as skillful in parrying questions, and I want to be frank.

Mr. BEALL. Oh, I want to be frank with you, also.

The CHAIRMAN. And do not try to parry any questions, Mr. Giles.

Mr. GILES. I do not wish to. I want to be frank.

Mr. BEALL. Are you willing that oleomargarine shall be colored, as oleomargarine, in any shape or form?

Mr. GILES. No.

Mr. BEALL. You don't want it sold yellow, even if the purchaser knows when he is buying oleomargarine?

Mr. GILES. I don't want it sold that way. I want a perfect line of demarcation from start to finish.

Mr. BEALL. Then what you want is not a protection against fraud, because there would not be any fraud if the purchaser knew what he was getting.

Mr. GILES. Not fraud, but would not the word "substitution" answer the same and mean the same?

Mr. BEALL. It is a recognized substitute for butter. That is what it is made for and sold for, as a substitute for butter. But if the purchaser knows that he is buying a substitute, you are not willing for him then to have it colored yellow?

Mr. GILES. No, I do not think I would be.

Mr. BEALL. And you want to invoke the power of Congress to prevent an American citizen from going to a grocery store and buying oleomargarine as oleomargarine of a yellow color?

Mr. GILES. Without he pays the corresponding difference, why, I suppose this bill——

Mr. BEALL. What corresponding difference?

Mr. GILES. Ten cents a pound.

Mr. BEALL. Well, independent of that, whether there is a tax or no tax?

Mr. GILES. No, sir.

Mr. BEALL. You do not want him to buy yellow oleomargarine when he knows that he is getting oleomargarine, do you?

Mr. GILES. Oh, yes; we could not consistently object to that, sir.

Mr. BEALL. I could not see how you could, either.

Mr. GILES. I made a statement that will go in the record——

Mr. BEALL. You do not object to that?

Mr. GILES. If it is plainly a line of demarcation, so that the American citizen when he goes to a store and wants to buy oleomargarine—I can not see any objection if he wants to buy it of any honest, bona fide dealer.

Mr. BEALL. If it was yellow, you would not have any objection?

Mr. GILES. I do not see how we could consistently object.

Mr. BEALL. I don't either, and that is why I was so surprised when I thought you answered differently.

Now, if that can be done, if such safeguards can be thrown around it that the protection will be given, the only persons, then, that could be deceived would be those who might eat oleomargarine in hotels and boarding houses?

Mr. GILES. Yes; but they should be protected.

Mr. BEALL. Can you give us any estimate of the percentage of people of the United States that live in boarding houses?

Mr. GILES. No; I can not give you those figures.

Mr. BEALL. Or hotels?

Mr. GILES. No; I can not.

Mr. BEALL. God pity them! [Laughter.] It is a small percentage; won't you agree to that?

Mr. GILES. No; I should not think so.

Mr. BEALL. Well, would it be 5 per cent, do you suppose?

Mr. GILES. I think it would be very much more.

Mr. BEALL. Twenty per cent?

Mr. GILES. I think more.

Mr. BEALL. Thirty per cent?

Mr. GILES. I don't know why I should be put upon that question. I can not qualify as an expert upon that subject. I have a right to guess, and I might guess wrong.

Mr. BEALL. It is not a majority of the people of the United States, in your judgment, is it?

Mr. GILES. Not permanently living in that way, but temporarily; yes.

Mr. BEALL. You think a majority of the people live that way?

Mr. GILES. I think a majority go away from home occasionally.

Mr. BEALL. And for the sake of those, in order to protect those who live in boarding houses and hotels, who would not be protected by any safeguards thrown around the original sale of it, you would be willing to come to Congress for their benefit and ask the enactment of a law forbidding the sale of oleomargarine that is yellow?

Mr. GILES. This is the point I want to make; this is what we stand here for: A plain, absolute line of demarkation between the two products from the original manufacturer down; yellow or some degree for the one, and white or some degree for the other.

Mr. BEALL. Is the only line of demarkation between the two the color line, in your judgment?

Mr. GILES. It is the only one I know of now.

Mr. BEALL. Suppose the oleomargarine is manufactured and put up in 1, 2, and 3 pound packages, with the name of it stamped, the name of the product, stamped upon the wrapper, with an internal-

revenue stamp upon it, and with a law forbidding the breaking of that package until it goes into the hands of the ultimate purchaser, don't you think that that would correct the danger to a very great extent?

Mr. GILES. It might correct it some, but it would not reach the point that we desire now. That would require amending and changing.

Mr. BEALL. That is what we are here for.

Mr. GILES. It is your business.

Mr. BEALL. It would protect everybody except those who might be deceived in hotels and boarding houses.

Mr. GILES. And the point I want to make again is this: We see no point excepting the color point, and if, in the wisdom of Congress, some other and better means shall be determined upon that shall reach that point, we can not ask for anything more.

Mr. BEALL. Don't you suppose that the inmates of hotels and boarding houses are very often deceived by having renovated butter served to them as creamery butter?

Mr. GILES. That might be the case; I don't know.

Mr. BEALL. Would you be willing to go to the extent of having Congress enact legislation forbidding the coloring of this renovated butter in the color of creamery butter?

Mr. GILES. I should—I don't know that I quite catch the fullness of that question.

Mr. BEALL. Well, people are frequently deceived.

Mr. GILES. May I ask this question: Renovated butter is now subject to a tax?

Mr. BEALL. Yes; but it is permitted to be colored just as well as creamery and dairy butter.

Mr. GILES. I am willing to go to any extent for renovated butter or any fraudulent butter as butter. If in the wisdom of Congress, and the protection of the health of the people, these things are required, we can not object to them.

Mr. BEALL. You mentioned cottolene as a substitute for lard. It is the same color, isn't it?

Mr. GILES. I would not undertake to say that it was, and I have understood that there is more yellow in cottolene than in lard.

Mr. BEALL. I did not hear all of your testimony. When I came in you mentioned cottolene. Don't you imagine that a good many unfortunate dwellers in boarding houses and hotels have served to them bread that is made out of cottolene that they believe is made out of pure lard?

Mr. GILES. I think, perhaps, with all due respect, Mr. Congressman, that you are going farther away from me than I am capable of going. I don't know. I do believe that I am stating the truth, that cottolene now is accepted as an honest household supply. Many people do use it, not to deceive, but because of its absolute intrinsic merit.

Mr. BEALL. And we think the same thing about oleomargarine.

Mr. GILES. But I am perfectly willing to admit——

Mr. BEALL. I don't think there is anybody that is interested in the change of this law who wants oleomargarine sold to any of the people of this country for anything excepting what it really is.

Mr. GILES. Well, then, we agree absolutely.

Mr. BEALL. Except as to the means of attaining the end. In your judgment the only way to do it is to absolutely prohibit the sale of yellow oleomargarine.

Mr. GILES. As it appears now, the present law, known as the Grout law, of 1902, as amended by the McHenry bill now before you, will meet the situation.

Mr. BEALL. And protect the dairy interests?

Mr. GILES. Incidentally.

Mr. BEALL. Incidentally, and seriously injure the oleomargarine interests?

Mr. GILES. I can not see why.

The CHAIRMAN. Were you present when the Commissioner of Internal Revenue was here?

Mr. GILES. Yes, sir.

The CHAIRMAN. I would like to ask you two or three questions going into the details of these bills, because, as Mr. Beall said, every member of the committee is anxious to help frame a law which will absolutely safeguard the sale of oleomargarine. We are just as much interested as anybody can be. We are anxious to get suggestions that will help us to draw such a law.

I want to inquire whether the statement made by the Commissioner of Internal Revenue as to the difficulty of enforcing the law from the revenue standpoint, due to the wide difference between the tax on uncolored and the colored product, impressed you with the idea that it might be better to make a uniform tax, in discussing what that tax shall be, and make the same tax on both colored and uncolored?

Mr. GILES. It did not strike me that way.

Mr. HAUGEN. I don't think that that is relevant. I don't think anybody advocated a uniform tax. I think the commissioner pointed out the remedy.

The CHAIRMAN. The point I am getting at is this: The commissioner certainly did say, and emphasized the statement, that the great discrepancy between the amount of these two taxes furnished so much of an inducement to men to violate the law that it was very difficult to enforce it. You heard him make that statement, did you not?

Mr. GILES. I did; yes, sir.

The CHAIRMAN. That statement impressed me very strongly because it suggested to my mind that there were now two inducements to violate the law, one the inducement offered by the difference in the taxes, whereby a man who defrauded the Government of 9½ cents additional tax on the colored product could reap a great profit by selling the article as oleomargarine, and the other the old complaint that on account of the difference in the price of oleomargarine and butter there is a temptation to sell it for butter instead of oleomargarine; and I wondered if that impressed you in the same way.

Mr. GILES. It did not impress me that way. I will tell you how it impressed me—that is to say, it did not stagger my great faith in the United States Government to enforce their own laws. I believe when we put a law on the statute books that it is good. I was glad indeed to hear the reply the internal-revenue man made when Mr. Flanders asked him the question, perhaps a hypothetical one, if certain amendments were made, would it not improve the conditions, and he said it

would. Those were the amendments we asked for. It did not strike me that our case was hopeless, because under the present bill we had not given that 10 cents. I don't think the Government can hope to get a great amount from the 10-cent tax, but the hope is to prevent the selling of this article that is subject to a 10-cent tax, and not evasively.

The CHAIRMAN. Are you familiar with the laws that exist in New York State relative to oleomargarine?

Mr. GILES. In a general way.

The CHAIRMAN. I believe you have enacted a new law there within a year.

Mr. GILES. A year ago; yes.

The CHAIRMAN. Prior to that time you depended entirely upon the color line for the enforcement of the law?

Mr. GILES. Very largely; yes.

The CHAIRMAN. And the new law, as I understand it, provided for the sale in the original package?

Mr. GILES. To prevent a certain amount said to be sold subject to the United States law, and yet we did not have protection sufficient.

The CHAIRMAN. What is your judgment; has the new law been efficacious?

Mr. GILES. It has been a great improvement, and there is already a marked change in the conditions.

The CHAIRMAN. To what do you attribute that?

Mr. GILES. It must be our law which was enacted last year.

The CHAIRMAN. What particular feature of the law?

Mr. GILES. The most particular feature is this original package, and the greater difficulty of getting yellow coloring into it. I have acquaintances in the mercantile business who had oleomargarine for sale honestly as oleomargarine previous to that law, and they discontinued because the people when they came to look at it did not like, and so it is now. We think it is the new law that has changed that situation.

The CHAIRMAN. Is it the change in the law as to the color proposition?

Mr. GILES. Not in the wording of the law.

The CHAIRMAN. Was that practically the only change?

Mr. GILES. I simply say, getting the original package and having it go in the small packages direct.

The CHAIRMAN. And that has been very effective?

Mr. GILES. We think it has been effective; yes.

The CHAIRMAN. I think it will interest you and other gentlemen here; and I am reminded of it upon a statement that you made in answer to a question that you thought all other countries had strict laws in relation to the sale of oleomargarine, to learn just what those laws are in two countries of Europe, and it occurred to me that it would be interesting to the committee to learn what the laws of other nations were in respect to this proposition. So I addressed a letter to the Secretary of Commerce and Labor asking him to supply me with those laws. He replies that he has no report upon them excepting in the case of the Netherlands and of Hungary. Of course, I will not read all of the communication, but it is in effect summarized in these two or three sentences. Referring to the antipathy which

exists toward oleomargarine in portions of that country, the Netherlands, the consul-general says [reads]:

Curiously enough no such antipathy exists in Holland, despite the fact that it is one of the world's greatest dairy countries. If the margarine looks the same as butter, and also tastes the same, the Dutch do not understand why they should not eat it, especially as chemists assure them that there are no evil effects from indulgence in the substitute. The farmer, on the other hand, finds a sufficient market at home and abroad for his butter and the price he obtains is as good as it ever was. The good will of the people thus being with the margarine manufacturer, it is easy to understand the almost total lack of laws regulating the manufacture and sale of this product.

And it appears from what he states further that there is no legislation relating to coloring, or in any other respect restricting its sale.

Mr. CHAPMAN. Is that report from an American official in Holland?

The CHAIRMAN. From the American consul-general in Holland.

And here is a curious statement in connection with the report from the vice-consul-general of Hungary. They have laws in that country relating to the sale of oleomargarine very much as we have here, among other things requiring the retailer to brand the packages and display placards to the effect that they are selling oleomargarine, and the comment on it is this. [Reads:]

The enforced use of signs in shops where margarine is sold has produced the curious and unexpected result of an increase in the consumption, for in many places the compulsory signs were taken for advertising placards by the public.

I think that might be a suggestion to our oleomargarine friends.

Mr. LEVER. May we insert that in the record?

The CHAIRMAN. Yes.

Mr. HAUGEN. Now, as to that law in Holland, it says that it may be sold in the same room, but partitions must be erected and signs must indicate where the oleomargarine is sold.

Mr. LEVER. What is the date of that?

Mr. HAUGEN. July, 1900.

Mr. LEVER. Is that the latest law on the subject?

Mr. HAUGEN. I sent to the Agricultural Department and asked for the laws, and they referred it to the Department of Commerce and Labor.

The CHAIRMAN. This is of 1910, so I suppose they have a little later information.

Mr. GILES. I want to say that in pursuance of some information on that subject, I have had correspondence with a gentleman who is fully aware of the law and practice in Denmark, and I have in my hand a letter which gives me something of what that law is there, but as it is not fully complete, and as the author of this letter will be here before our hearing closes to-morrow, I will ask the privilege of either introducing this or the gentleman to prove this himself to-morrow or at some later time.

The CHAIRMAN. There is one other section of the McHenry bill to which I would like to call your attention. It is on page 6, section 13:

That whenever any stamped package containing oleomargarine is emptied, it shall be the duty of the person, firm, or corporation in whose possession the same is to destroy utterly the stamps thereon.

I would like to ask if what the Commissioner of Internal Revenue said yesterday about the way in which that provision of the law was used at present by dealers in oleomargarine shook your confidence in that section?

Mr. GILES. No; not in this law.

The CHAIRMAN. I mean in this section.

Mr. GILES. In this section—it showed me wherein you, in your wisdom, might possibly strengthen it a little bit at that particular point. We would not be willing to stand here and say that we have got this in infallible shape now.

The CHAIRMAN. You are willing that we shall take some liberty with this bill?

Mr. GILES. We want you to do what we have asked you to do, establish this line, and if our suggestions will help any, you are welcome to them, and if not, get there.

The CHAIRMAN. This bill is the groundwork upon which we shall work.

Mr. GILES. That is what I want my appearance to stand for, for the McHenry bill as amending the present law. That will meet the requirements. If, in your judgment, there are other amendments that will do the same thing—

Mr. BURLISON. Your purpose being to prevent fraud?

Mr. GILES. Yes, sir.

Mr. BURLISON. And if that can be accomplished—

Mr. GILES. Not only fraud, Mr. Congressman, but substitution.

Mr. BURLISON. If that can be accomplished without the 10-cent tax, you are perfectly willing to see it done?

Mr. GILES. I am not willing to admit that point now until I see the provision that will do that.

Mr. HAUGEN. Does the McHenry bill cover every suggestion made by the commissioner here yesterday?

Mr. GILES. We think so; yes, sir. That is why I answered the chairman as I did when he asked me my impression of the Internal Revenue Commissioner's —

Mr. HAUGEN. In eliminating the words "artificial coloring," does not that cover the objection made by the chairman?

Mr. GILES. It seems so to me.

Mr. LEVER. You do not stand for the continuance of the present law if it does not prevent fraud?

Mr. GILES. I stand here for that until we can get the law improved toward the end that we stand for.

Mr. LEVER. Your original-package law in New York State, as I understood you to say, had been efficacious in reducing fraud?

Mr. GILES. We think so.

Mr. LEVER. Would you be willing to have a federal original-package law, in the hope that the same end might be reached?

Mr. GILES. The McHenry bill covers that, doesn't it?

Mr. LEVER. Somewhat, yes. Would you be willing to take the tax off entirely, then?

Mr. GILES. No; I am not willing to make that admission with my present light on the subject.

Mr. LEVER. Do you think that the tax has any tendency to reduce fraud at this time?

Mr. GILES. It seems to me so.

Mr. LEVER. In the light of the statements of the officials who enforce the law?

Mr. GILES. Yes.

Mr. COCKS. I want to ask you if you do not agree with the commissioner that the great increase in the fraud was because certain sections of the revenue law had been omitted from the oleomargarine law?

Mr. GILES. That is all.

Mr. HAUGEN. Would you be satisfied with the present law if the "joker" referred to was eliminated as to artificial coloring?

Mr. GILES. Not entirely, but that would improve it.

The CHAIRMAN. I think in justice to the Fifty-seventh Congress, which enacted that law, that the term "joker" ought to be inclosed in quotation marks.

Mr. HAUGEN. I think it is pretty well known how it got in there.

Mr. FLANDERS. Just before you hear the next speaker, I want to say a little something to clear up the impression upon the New York state law. The amendment of the New York state law about the original package being done up in a certain way does not apply to all oleomargarine. It only applies to that that may be sold honestly. The statute absolutely forbids the sale of oleomargarine in the semblance of butter. That not in the semblance of butter may be sold, and that is the kind that has to be done up in the original package. So that the law has not been amended so as to let in all the oleomargarine.

The next speaker, Mr. Chairman, is Mr. Shilling, of Illinois, the secretary and treasurer of the National Buttermakers' Association, who will speak to you upon the attitude of the dairymen toward this bill, as well as the poor man's attitude.

STATEMENT OF MR. S. B. SHILLING, OF 154 LAKE STREET, CHICAGO, ILL.

Mr. SHILLING. Gentlemen, members of the committee, I wish to crave your indulgence for just a few minutes in the discussion of two or three phases of the question which have been injected into this controversy. The first feature I wish to discuss is this: The dairymen have been charged repeatedly that they are unfair, that they have mercenary motives, that they are influenced by a moneyed consideration entirely in their efforts to retain upon the statute books a law taxing a so-called pure-food product. Now, Mr. Chairman and gentlemen of the committee, I wish just for a few minutes, in contradiction to our attitude as dairymen, to call your attention to the time prior to that of the passage of the original law; also to refer you back to the year 1902, the fiscal year ending July 1. At that time there were one hundred and twenty-six and one-half million pounds of oleomargarine placed upon the market. The next year, following the passage of this law, when the law was supposed to be good, and not in the condition referred to by our worthy commissioner in his argument before you day before yesterday, in such a condition that you could drive a four-horse team through it and not touch it; but when it was understood that the law was placed upon the statute books for the purpose of suppressing the sale of the product by compelling the sale of it for what it was, the output of the product dropped that year to less than 50,000,000 pounds. And it seems to me, gentlemen, in all candor, that that of itself is sufficient evidence of the fact that three-quarters

of the product that was sold up to that time was sold as butter. This was charged repeatedly during the hearing at that time. It was the condition that prevailed up to that time. That is what prompted the dairymen to come before this committee and Congress and ask for some kind of restrictive legislation that would protect them in the sale of their product. But, gentlemen, when the dairymen are charged with a selfish motive in asking for this law, how is it that the oleomargarine manufacturers and dealers, or anyone connected with the sale of it, has the right to charge us with selfish motives in the protection of our industry when the same identical motive must have been the motive that prompted them in the manufacture and sale of their product? But, understand, I am not standing before you to find fault with that, because it is a laudable motive and a business condition that prevails in every branch of our Government and business to-day.

Now, with that I dismiss this subject and go to the next one. The next is the cry that has been raised upon the poor man's butter. It seems to me that if there is a part of this controversy upon which there is no foundation in fact, it is this cry as to the poor man's butter; and I am going to give you the reasons for this as briefly as I possibly can. And again I wish to refer you to the statement of the Commissioner of Internal Revenue made before you a day or two ago, when he told you that the coming year would undoubtedly see about 130,000,000 pounds of oleomargarine produced and placed upon the market. At the same time he told us that less than 3 per cent of this amount paid the 10-cent tax.

Now, Mr. Chairman and gentlemen, in all candor and honesty, I would like to ask you how it would be possible for the poor man to suffer when less than 3 per cent of the product, if the product was sold for what it is, in its natural condition—how it is possible for the poor man to suffer as a result of a 10-cent tax?

There is one more statement that I want to make to you gentlemen, and that is this—and I am very nearly ready to close. I wish to stand before you and say this: There is no commercial value in colored oleomargarine to-day. Now, I want to make myself plain in saying this.

The supply and demand does not regulate the price that the consumer pays for colored oleomargarine. Neither does the cost of the original constituents that enter into that product. The price of oleomargarine to the consumer, of colored—now, understand, I am speaking of colored; I may not have made that plain, but so far I have not touched anything else—the price of colored oleomargarine is regulated, and the consumer pays the price for it according to the price of creamery butter. As evidence of that I want to say to you that during the short period of time that butter this winter went to the price of 40 cents a pound, retail, in the city of Chicago, the price of oleomargarine, notwithstanding the fact that there was no material increase in the price of the constituents of which it is composed, advanced from 30 to 35 cents a pound. Now, Mr. Chairman, my idea in presenting that to you in this way is this, that if the laboring man—I will not say the laboring man, but if the poor man—thoroughly understood the situation to-day, he would realize the fact that the only protection that he has got is in the color of it.

With all due consideration for the gentleman that appeared before you the other day, while he stated his position, and I also believe he was honest in every single statement he made, still at the same time I believe that the 10-cent tax had been held so persistently before him, that if he had been allowed to go on and make his statement, and if it had not been for the adroit questions of the gentleman, he would have confessed before you before he sat down that he never had heard of the quarter of a cent tax at all. Now, Mr. Chairman, I believe, as I said before, that the only protection that the poor man has got is in the color of the product. You can go into any retail establishment in Chicago to-day, and I take it that it is the same the country over, and the price of oleomargarine is regulated just according to the color of it. With that statement I wish to pass from that and say this: The dairymen wish this protection; but I want to stand before you and emphasize the fact that there is a class of people, 10 to 1, that is entitled to the protection, and that is the consuming public. I believe they have not received the consideration in this matter that they are entitled to from the very beginning. They are the people that actually suffer as a result of this, and I wish to close with this statement again to you, because I believe this as firmly as that I am standing before you to-day, that the only protection that the poor man has got is the absolute elimination of all coloring matter from oleomargarine. I thank you.

Mr. LEVER. I want to ask you a question or two.

Mr. SHILLING. Yes.

Mr. LEVER. The coloring of oleomargarine in imitation of butter, if I understand your statement, in effect reduces the price of butter?

Mr. SHILLING. What is that now? I wish to understand your question.

Mr. LEVER. I say the fact that oleomargarine is colored like butter, and is sold in competition with butter, has a tendency to depress the price of butter; is that true or not?

Mr. SHILLING. I did not make that statement; I did not intend to, at least.

Mr. LEVER. Is that true or not?

Mr. SHILLING. I would hardly think so; not under conditions when we are not producing any more butter than is necessary to supply the consumptive demand.

Mr. LEVER. Then the coloring of oleomargarine does not affect the dairy interest, if it does not depress the price of butter; the coloring of oleomargarine would not affect the dairy interest if it does not affect the price?

Mr. SHILLING. I would not want to be understood as making that statement, that it did not affect it. I think I stated distinctly that the object of the dairymen in entering into this was to do away with the fraud as the result of the sale of colored oleomargarine for their product.

Mr. LEVER. For the purpose, now, of protecting the consumer of the butter and the oleomargarine or for the purpose of protecting the dairymen against the competition of oleomargarine with their butter?

Mr. SHILLING. The fraudulent sale, as their product, of oleomargarine.

Mr. LEVER. The fraudulent sale of oleomargarine?

Mr. SHILLING. Of oleomargarine; yes, sir.

Mr. LEVER. Then the effect of oleomargarine, so far as it affects the price of butter, is nothing, as I understand your statement?

Mr. SHILLING. If it is sold for what it is. You understand that I stand simply on that word "fraudulent" sale of oleomargarine.

Mr. LEVER. I still do not think Mr. Shilling catches the point I am after. You come here representing the dairy people, as I understand it?

Mr. SHILLING. I am a dairyman.

Mr. LEVER. You are a dairyman, and you are protesting against the fraudulent sale of colored oleomargarine because it hurts your business, first?

Mr. SHILLING. Naturally.

Mr. LEVER. And secondly, because as a patriotic citizen you want to protect the consumer against a fraudulent food product, as you call it?

Mr. SHILLING. Yes.

Mr. LEVER. But in answer to my question a moment ago you said that no matter how much colored oleomargarine was sold in the country it would not affect the price of butter.

Mr. SHILLING. I do not think I stated it that way.

Mr. LEVER. You did not state it that way?

Mr. LAMB. No; he did not make that statement.

Mr. SHILLING. I did not intend to, if I did. I did not intend to make that statement.

Mr. LEVER. Your statement now is that the price of butter regulates the price of oleomargarine?

Mr. SHILLING. Of colored oleomargarine.

Mr. LEVER. And that the price of colored oleomargarine has no effect upon the price of butter?

Mr. SHILLING. The price of colored oleomargarine sold fraudulently has an effect upon the price of butter. Is that the statement you wish me to make?

Mr. LEVER. That is the statement I am trying to get.

Mr. SHILLING. I make that statement, that sold fraudulently it has an effect upon the price of butter.

Mr. LEVER. The effect would be to reduce the price of butter?

Mr. SHILLING. Yes.

Mr. LEE. What firm are you with in Chicago?

Mr. SHILLING. I am engaged in my own business, everywhere.

Mr. LEE. Selling butter?

Mr. SHILLING. No, sir.

Mr. LEE. Are you a member of the Elgin Butter Board of Trade?

Mr. SHILLING. No, sir.

Mr. LEE. You are not a member of it?

Mr. SHILLING. Neither of the Elgin Board of Trade nor of the Chicago Board of Trade. I am not a member of either.

Mr. LEE. About the 4th of March the president of the Elgin Board of Trade sent out a telegram, and the same day the price of butter was reduced 6 cents a pound all over the United States.

Mr. SHILLING. I understand that is so. I have it from hearsay.

Mr. LEE. And within a week the price of butter was reduced 2 cents all over the United States?

Mr. SHILLING. I do not know.

Mr. LEVER. Was that reduction of 6 cents a pound in the price of butter due to any trade conditions in the country?

Mr. SHILLING. I do not know.

Mr. LEVER. You do not know?

Mr. SHILLING. No, sir.

Mr. LEVER. You do not know of any that would have had that effect?

Mr. SHILLING. No.

Mr. LEE. Due to its being about the time that these hearings were to be held?

The CHAIRMAN. I would like to ask a question, getting back to the provisions of the bill, again. I understand that it is only a question of methods?

Mr. SHILLING. Yes.

The CHAIRMAN. I understand that the reason the proponents of this McHenry bill wish to have the words "artificial coloring matter" eliminated, is because the oleomargarine manufacturers introduce ingredients into their product which do give it a shade of yellow, although those ingredients can not be classed as artificial coloring, and I understand the oleomargarine people, on the other hand, object to the phrase "any shade of yellow," because they declare that it is impossible at certain times of the year to make their product and not have it show some shade of yellow. It has occurred to me to inquire your judgment as to whether it might be possible to incorporate into the bill the component parts that should constitute the ingredients of oleomargarine, prescribing in the bill itself that not to exceed a certain quantity of the following articles shall be used in the manufacture of oleomargarine, and put in that list nothing that can be regarded as inserted there merely for the purpose of producing a color. What would you think of that?

Mr. LEVER. Had we not just as well prescribe what sort of food they shall give the cow? It seems to me so.

The CHAIRMAN. I would like to have him answer my question, if he can. It does not seem to me entirely unreasonable.

Mr. SHILLING. Mr. Chairman, so far as these bills are concerned, or so far as matters of that kind are concerned, they are matters that I have not gone into deep enough to be able to give an intelligent answer.

Mr. HAUGEN. Just one question. If all restrictions were removed as to the sale of oleomargarine, what effect would it have upon the sale of butter?

Mr. SHILLING. If all restrictions were removed? What do you mean?

Mr. HAUGEN. If all restrictions were removed as to the fraudulent sale of oleomargarine.

Mr. SHILLING. If all of the restrictions as to the fraudulent sale of oleomargarine were removed, what effect would it have upon the sale of butter?

Mr. HAUGEN. Yes.

Mr. SHILLING. Our opinion is that it would entirely drive us out of the dairy business.

Mr. HAUGEN. That is all.

The CHAIRMAN. Are there any further questions?

Mr. HAUGEN. If you do it by degrees it will reduce it by degrees, in proportion?

Mr. SHILLING. Yes.

Mr. BURLESON. As I understand, you want to retain the color distinction? You wish, that is, to retain the color distinction between butter and oleomargarine to prevent the fraudulent sale of oleomargarine?

Mr. SHILLING. Our experience is that so long as the color is permissible there fraud will be committed.

Mr. BURLESON. That is the reason you want to retain the color distinction?

Mr. SHILLING. Yes.

Mr. BURLESON. Now, if that is your reason, would you object to the poor man you spoke of a while ago having oleomargarine colored yellow, if he knew it was bought as oleomargarine, without having it taxed; without a 10-cent tax?

Mr. SHILLING. I would have to answer that by saying that our best experience leads us to believe that so long as coloring is permissible there will be fraud in its sale.

Mr. BURLESON. Then you are not willing for the laboring man, or the poor man you spoke of a moment ago, to buy his oleomargarine colored yellow unless he pays a 10-cent tax, although he knows that it is oleomargarine when he buys it?

Mr. SHILLING. I am not willing that oleomargarine should be sold—

Mr. BURLESON. I do not hear you.

Mr. SHILLING. I am not willing to concede that oleomargarine can be sold honestly as long as it is colored in semblance of butter.

Mr. LEVER. With or without the tax?

Mr. SHILLING. Either with or without the tax.

Mr. BURLESON. Mr. Shilling, I do not know that I catch your meaning exactly. Do I understand you to say that you would be unwilling for a man to buy oleomargarine that was colored yellow, if he knew that it was oleomargarine he was buying, unless he paid this 10-cent tax on each pound?

Mr. SHILLING. The only way I can answer that, Mr. Congressman, is to say that I am not willing to agree to the sale of colored oleomargarine under any kind of a tax. Individually now—I do not profess in this to speak for anybody—individually I claim that oleomargarine should be sold only in its natural color, and I would have to refer you to the statement of Mr. Tucker, which he made before you at the last meeting, when he said that it was impossible with two products manufactured identically alike, sold for the same purpose, for there to be honest competition between them.

Mr. BURLESON. Then, as I understand you, your contention is that if oleomargarine can not be manufactured without a shade of yellow the industry ought to be destroyed?

Mr. SHILLING. I do not say that. No, indeed; we have never taken that position.

Mr. BURLESON. Then I will see whether you say it. Suppose it is shown that oleomargarine of a high class, a high quality, can not be manufactured during a certain period of the year without a shade of yellow; would you still insist upon the passage of the McHenry bill? Please answer the question. It seems to me somebody alongside you is trying to assist you to answer it.

Mr. PLUMLEY. That is hardly fair, Mr. Burleson.

Mr. BURLESON. No, I think it is exactly fair; I beg the gentleman's pardon. I am willing for anybody to assist you in answering that question.

Mr. SHILLING. Now, will you ask your question again, so that I can exactly get your meaning?

Mr. BURLESON. If it can be shown, conclusively shown, that oleomargarine can not be manufactured during certain seasons of the year without a certain shade of yellow, would you still insist upon the enactment of the McHenry bill?

Mr. SHILLING. I think that our position, Mr. Congressman, is this: That we are standing for the McHenry bill unless we can get something to suit our taste better.

Mr. BURLESON. I do not think, still, you have answered the question, Mr. Shilling; but if you are content with that answer, very well.

Mr. SHILLING. That is the way——

Mr. BURLESON. As the representative of the butter interests, the dairy union, if you are content with that answer, I am.

Mr. SHILLING. I would prefer to leave it in that way, Mr. Congressman.

Mr. LEVER. One minute. The McHenry bill continues the 10-cent tax, does it not?

Mr. SHILLING. Yes; and, as I say, I do not care to discuss it, because I am not familiar enough with the bill to enter into a discussion of it.

Mr. LEVER. Let me make this statement, and then ask you a question about it. The curious part of the proposition is that you gentlemen, both on the butter side and on the oleomargarine side, admit that the present law is ineffective as reducing, or even minimizing to any great extent, the fraud upon the public. Your contention here is to take the color out of oleomargarine as a protection to the public against the fraudulent sale of oleomargarine for butter. If that is your position, why do you want to continue this ineffective piece of legislation and pay a tax of 10 cents a pound?

Mr. SHILLING. If I understand it rightly, the McHenry bill provides for remedying the defects of the original law which you have just mentioned.

Mr. LEVER. And taking the color out of oleomargarine?

Mr. SHILLING. No; it does not, as I understand it, entirely take the color out of oleomargarine.

Mr. LEVER. Colored in imitation of butter?

Mr. SHILLING. Colored in imitation of butter. I believe that the 10-cent tax is in the McHenry bill, and it permits the coloring of oleomargarine.

Mr. LEVER. But the effective part of this bill, as you understand it, is the taking of color out of oleomargarine in imitation of butter?

Mr. SHILLING. I do.

Mr. LEVER. And you place no practical reliance upon the 10-cent tax as reducing the fraud, is that correct?

Mr. SHILLING. I think the original intention of the drawers of that bill was that the 10-cent tax would do away with the color in oleomargarine. Now, that is simply an individual opinion, and I do not give it as coming from anyone authoritatively.

Mr. LEVER. Yes; but your knowledge is now that it has not had that effect?

Mr. SHILLING. It has not, I certainly must confess.

Mr. LEVER. Then why continue that 10-cent tax?

Mr. SHILLING. Now, when you ask that question, do you ask why we advocate that tax?

Mr. LEVER. Yes.

Mr. SHILLING. For the simple reason it is the best thing offered up to the present.

Mr. LEVER. But what effective force does the 10-cent tax have? How does it strengthen your bill, when it is admitted everywhere and by everybody that it has been ineffective?

Mr. SHILLING. That was through defects in the wording of the law; that is, technical defects in the wording of the law as originally drawn.

Mr. LEVER. In your judgment will the continuance of this 10-cent tax on oleomargarine tend to protect the consumer against the fraudulent sale of oleomargarine, if the McHenry bill in its other features is passed by Congress? That is a fair question.

Mr. SHILLING. Yes; I would say so; we think that it will do away with, practically, the fraudulent sale of oleomargarine.

Mr. LEVER. What about the 10-cent feature?

Mr. SHILLING. The tax feature?

Mr. LEVER. Yes.

Mr. SHILLING. I do not know as I care to stand before you and say the "10-cent feature." I say the tax feature.

Mr. LEVER. And you would insist, even though we took the color out of oleomargarine in imitation of butter, that we would still have to have the 10-cent tax to enforce the law?

Mr. SHILLING. No. We would have to have a tax to enforce the law.

Mr. LEVER. You would not have to have the tax?

Mr. SHILLING. We would have.

Mr. LEVER. You would have to have it?

Mr. SHILLING. Yes.

Mr. LAMB. Wait a minute; do not go away yet, Mr. Shilling.

Mr. SHILLING. All right, sir.

Mr. LAMB. I want to ask you a question or two. Is not uncolored oleomargarine as good a substitute for butter as colored oleomargarine?

Mr. SHILLING. I do not know. I have never eaten it.

Mr. LAMB. You do not know about the coloring on it?

Mr. SHILLING. I do not know. I have never eaten it.

Mr. LAMB. Do you not know whether uncolored oleomargarine is or is not as good a substitute for butter as colored oleomargarine?

Mr. SHILLING. It has been testified to here by one of the largest producers of oleomargarine that it is better, and on that I believe what the gentleman says, but from no positive knowledge.

Mr. LAMB. Let me ask you another. You are in the interest of the poor man, there, as you described him, and that is all right. What is to prevent the poor man from buying from the retail dealer all the uncolored oleomargarine he wants, and if he chooses to color it, coloring it himself?

Mr. SHILLING. So far as I know, there is nothing to prevent.

Mr. HANNA. How much butter is produced in the United States in the course of a year?

Mr. SHILLING. I think the latest estimate is about a billion and a half pounds.

Mr. HANNA. How much oleomargarine is produced in the United States in a year?

Mr. SHILLING. According to the statement of the Internal Revenue Commissioner, there will be about 130,000,000 pounds this year. Last year there were ninety-two and a fraction million pounds.

Mr. HANNA. Then there must be a great many people all over the United States interested in the product of butter, and making a business of it?

Mr. SHILLING. Undoubtedly.

Mr. HANNA. And you and the others with you are here for the purpose of protecting a great big industry which is established all over the United States?

Mr. SHILLING. We are here for the dairymen, in their interest.

Mr. HANNA. You are here for a business that is already established?

Mr. SHILLING. Yes; we will concede that.

Mr. HANNA. And which goes into every State and Territory in the Union?

Mr. SHILLING. Yes.

Mr. BEALL. That estimate you give of the amount of butter, does that include the butter on the farms?

Mr. SHILLING. That is stated from memory. That may be right or wrong. I have no data to refer to, but that is to the best of my judgment.

Mr. HAUGEN. Did you say a billion and a half?

Mr. SHILLING. Yes; a billion and a half.

Mr. HAUGEN. That is a billion and a half, not a million and a half?

Mr. SHILLING. No; a billion and a half.

Mr. BEALL. Does that estimate include all the butter that is made in the millions of homes throughout the country?

Mr. SHILLING. I believe that is what the estimate covers.

Mr. BEALL. Let me ask you another question: If the color was taken out of oleomargarine, it is your judgment that it would reduce the demand for it and the sale for it, is it not?

Mr. SHILLING. Now, your question?

Mr. BEALL. If the color—if the right to insert this color either by natural agencies or artificially was taken away, is it not your judgment that it would reduce the demand for oleomargarine?

Mr. SHILLING. It undoubtedly would reduce the fraudulent sale of oleomargarine. Do you mean the demand?

Mr. BEALL. Would it not reduce the demand for oleomargarine?

Mr. SHILLING. It might. I do not know.

Mr. BEALL. Do you not think it would?

Mr. SHILLING. I really do not know. It might.

Mr. BEALL. I believe you stated that in 1902 there was about 126,000,000 pounds made. Was that right?

Mr. SHILLING. Yes. This law took effect in 1902.

Mr. BEALL. The law took effect in 1902?

Mr. SHILLING. Yes.

Mr. BEALL. It was supposed at first that oleomargarine could not be made colored except by artificial means. Within the next twelve months the production of oleomargarine declined from 126,000,000 pounds down to about 50,000,000 pounds, as I understand.

Mr. SHILLING. Yes.

Mr. BEALL. Do you not think that if a law was passed now forbidding the coloring of this except on condition that it pay the 10-cent-a-pound tax it would reduce the consumption of oleomargarine and reduce the production of it?

Mr. SHILLING. It might.

Mr. BEALL. Well, I know it might.

Mr. SHILLING. Yes.

Mr. BEALL. But do you not believe that it would? I want your opinion.

Mr. SHILLING. It would be my individual opinion if I should give it to you——

Mr. BEALL. That is all I want.

Mr. SHILLING. I would say that I would think, to start with, it would.

Mr. BEALL. You think it would?

Mr. SHILLING. I think it probably would reduce the production of it.

Mr. BEALL. Now, let us assume that the price of butter is regulated by the law of supply and demand. Whenever you reduce the production of oleomargarine you will increase the demand for butter, will you not?

Mr. SHILLING. That would probably be correct, to a degree, yes. I wish to say to you, however, that in spite of the increased production of oleomargarine there is a continual increase in the production of dairy products.

Mr. BEALL. Yes; an increasing demand, because there is a great increase in population?

Mr. SHILLING. A great increase in population and consumers.

Mr. BEALL. With this 100,000,000 pounds of oleomargarine that has been produced every year for the last few years, the demand for butter has also increased?

Mr. SHILLING. Yes.

Mr. BEALL. Now, if you reduce the production of oleomargarine you will still further increase the demand for butter, will you not?

Mr. SHILLING. That would be a natural consequence, I think.

Mr. BEALL. That would be a natural consequence?

Mr. SHILLING. I would think so.

Mr. BEALL. When you increase the demand for butter you will increase the price of butter, will you not?

Mr. SHILLING. To a certain extent only.

Mr. BEALL. Now, during the past winter I think butter went to about 40 cents a pound?

Mr. LEE. It was 60 cents in Washington.

Mr. SHILLING. I believe it was retailed for a short time at 40 cents.

Mr. BEALL. Forty cents?

Mr. SHILLING. Yes.

Mr. BEALL. We have 120,000,000 pounds of oleomargarine produced, estimated, during this year. Suppose that amount of oleomargarine had been reduced back to 50,000,000 pounds; do you not think that the price of butter would have been a good deal in excess of 40 cents a pound?

Mr. SHILLING. I do not.

Mr. BEALL. The demand would have been greater, would it not?

Mr. SHILLING. For the very good reason that the price of butter and food products can go about so high, when the public quit using them.

Mr. BEALL. Yes, you would have been confronted with one of two horns of a dilemma; either the price of butter would have gone beyond 40 cents or a great number of people in this country would have had to quit the use of butter, if it had not been for the supply of oleomargarine this year; do you agree to that?

Mr. SHILLING. Understand, while I will agree that oleomargarine has had an effect upon the price of butter, undoubtedly it is because it has been sold fraudulently for butter.

Mr. BEALL. If it had not been for this 120,000,000 pounds of oleomargarine, butter would have gone beyond 40 cents a pound?

Mr. SHILLING. It might.

Mr. BEALL. Or people would have been compelled to quit using it?

Mr. SHILLING. They might.

Mr. BEALL. Is it not your expectation that if you secure legislation preventing the insertion of coloring matter in any form in oleomargarine, it will help the dairy interests by increasing the demand for butter?

Mr. SHILLING. It is not.

Mr. BEALL. You do not believe it?

Mr. SHILLING. While it might temporarily, if the product oleomargarine is as good and nutritious—which I am not here to dispute—as they say it is, I do not believe that it would.

Mr. BEALL. You recognize the fact that people, whether they eat butter or whether they eat oleomargarine, have gotten accustomed to eating a product of a certain color, and they want that? You want the colored butter, do you not?

Mr. SHILLING. Yellow is the natural color of the pure product.

Mr. BEALL. Well, do you want the butter that you eat in December and January the natural color of the product that is made during that time?

Mr. SHILLING. It may be the natural color of the product that is sold at that time or it may not be.

Mr. BEALL. Well, is it not a fact, for some reason or other, as to the butter that is made during those months, that a certain amount of coloring matter is put into it in the dairies?

Mr. SHILLING. There is.

Mr. BEALL. That is put in because the consumers of butter like to have a butter of a uniform color of yellow the year around; is not that true?

Mr. SHILLING. I believe we are educated to that point.

Mr. BEALL. We are educated to that point?

Mr. SHILLING. From the fact that the best butter that is made during the year is made during June, July, and August, when that is the color.

Mr. BEALL. And the people that want to eat oleomargarine are educated the same way, are they not?

Mr. SHILLING. I do not think so.

Mr. BEALL. So that they want to eat a product that has the same uniform color that you want in butter?

Mr. SHILLING. I do not think so. I think that is a mere matter of sentiment with the people, and more particularly—

Mr. BEALL. Is it not a sentiment with the eaters of butter?

Mr. SHILLING. It has always been that way. We are educated to that point.

Mr. BEALL. We are all creatures more or less of sentiment, and can we not give expression to that sentiment——

Mr. SHILLING. We certainly can.

Mr. BEALL (continuing). In eating oleomargarine, just as properly as we can in eating butter?

Mr. SHILLING. Certainly.

Mr. BEALL. As a matter of fact you believe, and you will concede, will you not—because I believe you have tried to be fair—that it is to the interest of the dairy people, to their financial interest, for the advancement of their trade and business, to have the production of oleomargarine cut down just as low as possible?

Mr. SHILLING. It is to our interest to prevent the fraudulent sale of a product for ours. Will you accept that answer to that?

Mr. BEALL. I will accept that; but is that your only interest in it? Back behind that, is it not the fact that you think that it will affect your interest advantageously, from a financial standpoint?

Mr. SHILLING. If a product comes in and is sold fraudulently for our product, it certainly does injure us financially.

Mr. BEALL. Whether it is sold fraudulently or not, you are not willing to have it sold of any color of yellow, even if the purchaser knows that he is getting oleomargarine?

Mr. SHILLING. Because our experience, as I stated before, leads us to believe that it can not be colored and sold honestly. The minute the color goes in it, it makes fraud possible.

Mr. BEALL. If you knew to-day absolutely that a law could be framed here that would permit the manufacture of oleomargarine in its colored form, and that it would be sold by the manufacturer as oleomargarine, that it would be sold by the wholesaler as oleomargarine, that it would be sold by the retailer as oleomargarine, and that it would be used by the consumer as oleomargarine, knowing that it was oleomargarine, you still would not be willing for it to be colored, would you?

Mr. SHILLING. I will say this, in answer to that question——

Mr. BEALL. You can answer that question directly.

Mr. SHILLING. I can answer it in this way, that if you will draw a law of that kind and submit it to me, if in my judgment it covers the ground fully, I will——

Mr. BEALL. Well, assume that such a law could be enacted.

Mr. SHILLING. You can not assume anything.

Mr. BEALL. Yes; you can assume anything. [Laughter.] You can assume that such a law might be enacted. My proposition is, taking that assumption, would you be willing for oleomargarine to be made and sold of a color of yellow?

Mr. SHILLING. I will have to go back on my original statement, that our experience is that as long as the coloring of it is permissible, it will be fraudulently sold.

Mr. BEALL. Very well; that is all. He will not answer it.

Mr. LEVER. Mr. Shilling, just one question. The increased price of any article produced by any industry will also stimulate the industry and increase production, will it not?

Mr. SHILLING. Yes; I think so.

Mr. LEVER. And the demand regulates the production?

Mr. SHILLING. Yes.

Mr. LEVER. One minute, now, and I will promise not to ask any more questions. Your statement is that the two things that regulate

the price of butter to-day—or, rather, the three things—are the supply of butter, the demand for butter, and the amount of oleomargarine being sold in imitation of butter?

Mr. SHILLING. Of colored oleomargarine?

Mr. LEVER. That is it.

Mr. SHILLING. I would assent to that statement.

Mr. LEVER. Those are the three things?

Mr. SHILLING. The three important things.

Mr. LEVER. Those are the three important factors that enter into the price of butter?

Mr. SHILLING. I would assent to that.

Mr. LEVER. That admission being made, is it not a fact that every time you increase the production of oleomargarine just to that extent you reduce the price of butter?

Mr. SHILLING. No; not necessarily. I would not think that would follow.

Mr. LEVER. You increase the production of butter, do you not?

Mr. SHILLING. We certainly do; we increase the production of butter.

Mr. LEVER. If you increase the production of butter without increasing the demand for butter, that certainly would have the result of reducing the price of butter?

Mr. SHILLING. You included the reduction of price in your question.

Mr. LEVER. Let us take my proposition again. There is increased production of butter; there is an increased production of oleomargarine and sale of oleomargarine, and to the extent of the increased sale of oleomargarine there is necessarily a decreased sale of butter, and hence your price of butter must fall in that proportion; is that true?

Mr. SHILLING. Well, you are assuming, again, that oleomargarine is being sold for butter?

Mr. LEVER. Of course; yes.

Mr. SHILLING. Yes; you are assuming that it is being sold for butter.

Mr. LEVER. Yellow oleomargarine—which the people want to eat.

Mr. SHILLING. Yellow oleomargarine.

Mr. LEVER. Yes. What I am trying to get is this, that if oleomargarine is one of the elements that enter into the making of the price of butter, if you increased the sale of oleomargarine you would necessarily reduce the price of butter to that extent, and hence the only thing that stands between the laboring man and a butter famine, so far as that is concerned, is the oleomargarine production.

Mr. BURLESON. You spoke of butter being 40 cents a pound. Suppose a man's circumstances were such that he thought he could not afford to eat butter at that price, and he was willing to buy and consume oleomargarine; would you be willing for him to have the oleomargarine if he desired it, colored, without paying the 10-cent tax?

Mr. SHILLING. I will have to go back to my original statement on that, Mr. Congressman. I will not concede—I think I have maintained that position—the allowing of the coloring of oleomargarine, for the simple reason that our experience is that wherever it has been allowed to be colored it has been sold fraudulently.

Mr. RUCKER. I would like to ask the gentleman one question. I want to preface it by saying that this committee is seeking information, and we presume we have gentlemen before us who care to give it to us, and I presume that the witness understands the attitude of

the dairymen on this bill before Congress. Two or three times the question has been put to you here, to ask you if you have any objection, representing the butter interests, to the manufacture of oleomargarine in the yellow form, provided Congress throws around it such limitations and restrictions as will absolutely prevent its sale as butter, and I would like to have a direct answer to that.

Mr. SHILLING. I endeavored to give a direct answer to that, that I was not in favor of allowing the coloring of oleomargarine in any—

Mr. RUCKER. Event?

Mr. SHILLING. Event. Does not that answer it?

Mr. RUCKER. Even though such safeguards could be placed around it as to guarantee its delivery to every consumer as oleomargarine?

Mr. SHILLING. Because I do not believe—

Mr. RUCKER. I do not care what you believe. That is your attitude?

Mr. SHILLING. That is my attitude.

Mr. RUCKER. And, as I understand, you are opposed to any shade of yellow in oleomargarine, even though Congress could devise and throw around its manufacture such restrictions and protections as would absolutely guarantee that every consumer of oleomargarine would know he was consuming it?

Mr. SHILLING. Because I do not believe that is possible.

Mr. RUCKER. I do not care what you believe on the subject.

Mr. SHILLING. Then you force me to take the other position.

Mr. RUCKER. Then I ask you if you are opposed—

Mr. SHILLING. And I will say that I am opposed to the manufacture of oleomargarine in any shape or color.

Mr. RUCKER. That is what I wanted to get at.

Mr. McCARTHY. You made an estimate that the production of butter is about 130,000,000 pounds a year. Have you any statistics to show that?

Mr. SHILLING. No; I stated that that was taken from memory. I might be correct, or I might be wrong.

Mr. McCARTHY. Is there any authority for that?

Mr. SHILLING. There are estimates. I would not be positive as to that. I may be in error.

Mr. COCKS. He makes the statement that it is only a guess, anyway.

Mr. McCARTHY. I merely wanted to be sure that there were not any other figures than those I submit. May I ask, then, if, in the absence of other figures, the New York market is a pretty good index as to the production of butter?

Mr. SHILLING. I would think so, yes; but still there are other conditions that enter into it in other ways. For instance, the chamber of commerce last year and this year is receiving about one-third or a quarter more than the usual amount, finding a more ready outlet.

Mr. McCARTHY. You have not the official figures?

Mr. SHILLING. No, sir.

Mr. McCARTHY. I should like to read from the New York Produce Review something on that.

Mr. COCKS. Why can you not give us that some other time?

Mr. McCARTHY. It bears right on this.

Mr. COCKS. Can you not put it in the record, so as not to take up time with it?

Mr. McCARTHY. Perhaps the committee would like to ask questions concerning it.

Mr. COCKS. We want to hear the witnesses who are here.

(The matter referred to by Mr. McCarthy is here inserted in the record, as follows:)

The subjoined table gives the total receipts by years:

	Packages.
May 1, 1909, to May 1, 1910.....	2,270,655
May 1, 1908, to May 1, 1909.....	2,378,158
May 1, 1907, to May 1, 1908.....	2,249,923
May 1, 1906, to May 1, 1907.....	2,266,630
May 1, 1905, to May 1, 1906.....	2,510,124
May 1, 1904, to May 1, 1905.....	2,154,131
May 1, 1903, to May 1, 1904.....	2,141,407
May 1, 1902, to May 1, 1903.....	2,026,057
May 1, 1901, to May 1, 1902.....	1,964,049
May 1, 1900, to May 1, 1901.....	2,056,927
May 1, 1899, to May 1, 1900.....	1,911,061

The exports from this port to Europe reported in package follow:

	Packages.
May 1, 1909, to May 1, 1910.....	19
May 1, 1908, to May 1, 1909.....	34,833
May 1, 1907, to May 1, 1908.....	36,709
May 1, 1906, to May 1, 1907.....	119,664
May 1, 1905, to May 1, 1906.....	236,166
May 1, 1904, to May 1, 1905.....	84,659
May 1, 1903, to May 1, 1904.....	75,206
May 1, 1902, to May 1, 1903.....	51,377
May 1, 1901, to May 1, 1902.....	138,775
May 1, 1900, to May 1, 1901.....	187,285
May 1, 1899, to May 1, 1900.....	115,789

The following table gives the monthly receipts at New York with comparisons:

	1909-1910.	1908-1909.	1907-1908.
	Packages.	Packages.	Packages.
May, 1909.....	183,324	200,039	165,454
June, 1909.....	317,409	317,754	246,344
July, 1909.....	268,136	319,402	287,528
August, 1909.....	243,442	238,145	246,904
September, 1909.....	215,397	234,139	201,634
October, 1909.....	186,416	169,400	218,986
November, 1909.....	139,517	131,059	138,422
December, 1909.....	111,369	145,969	138,949
January, 1910.....	137,622	139,237	153,217
February, 1910.....	117,151	145,748	155,011
March, 1910.....	158,335	171,918	145,404
April, 1910.....	156,977	165,348	150,550

Below we give the range of prices and averages for each month in the year for finest grades of creamery:

Month.	Range specials.	Averages 1909-10 specials.	Averages 1908-9 specials.	Range 1909-10 extras.	Averages 1908-10 extras.
May.....	26 @ 29½	27.08	24.20	26 @ 28½	26.58
June.....	25½ @ 27	26.31	23.81	25 @ 26	25.81
July.....	26 @ 27	26.73	22.95	25 @ 27½	26.23
August.....	26½ @ 30	27.77	23.38	26 @ 29	27.19
September.....	29½ @ 32	31.00	24.50	29 @ 30½	30.13
October.....	31 @ 32½	31.00	27.40	30 @ 31½	30.64
November.....	31 @ 34	31.95	30.33	31 @ 33	30.95
December.....	34 @ 38	34.05	32.00	33 @ 37	34.90
January.....	31 @ 36	34.43	32.20	30 @ 33	33.44
February.....	28½ @ 33	30.82	31.08	27½ @ 32	29.64
March.....	33 @ 34½	33.58	30.03	32 @ 34	32.63
April.....	29 @ 35	32.07	27.98	28½ @ 34	31.13

The average for specials for the year was 30.76 cents, and for extras 29.94 cents. Last year specials averaged 27.49 cents, and extras 26.77 cents, and the previous year extras averaged 27.57 cents.

Mr. FLANDERS. Mr. Chairman, my next witness will be Mr. Frederickson, of Little Falls, N. Y. Mr. Frederickson is a gentleman of Danish birth. He has been referred to by Mr. Giles as the gentleman who knew about the Danish law, and I ask him to speak to us about the Danish law.

STATEMENT OF MR. J. D. FREDERICKSEN.

Mr. FREDERICKSEN. Mr. Chairman and gentlemen, I am rather familiar with the Danish law, because I have been in the dairy business all my life in Denmark before I came over here thirty-two years ago, and have followed it since then and have been in connection with the dairy business all my life here, and just now there is a professor in dairying from Denmark visiting here, and I talked the matter over with him the other day and got my information confirmed in regard to that, so that I think I can speak and tell you just what it is.

Denmark has a splendid market, as you probably all know, for its dairy products, dairy butter especially, in England, and when oleomargarine came into the market, the people at once saw that they could not afford to spoil the market for butter in England by allowing oleomargarine to be sold from Denmark in the form of butter, or for butter. For that reason they adopted drastic laws at once, and one of the main things is that oleomargarine must not be colored, and if it is possible to put color into it which can not be said to be artificial color—for instance, palm oil or other ingredients that they may put in legitimately—it must not be put on the market beyond a certain shade of yellow. The Government has a certain standard, and they have a certain shade; in fact, they have a number of tables giving a certain shade beyond which oleomargarine must not be colored, either in the home market or for export.

Mr. HAUGEN. That is shade No. 9?

Mr. FREDERICKSEN. I am not positive about that.

Mr. HAUGEN. How is that arrived at?

Mr. FREDERICKSEN. I could not state. The government experts, I suppose, have certain standards.

Mr. HAUGEN. They have cards which are prepared with certain shades?

Mr. FREDERICKSEN. Yes.

Mr. HAUGEN. And they are numbered?

Mr. FREDERICKSEN. Yes.

Mr. BURLESON. Have you finished your statement?

Mr. FREDERICKSEN. No, sir.

Mr. BURLESON. All right; I will wait until you finish.

Mr. FREDERICKSEN. Further, oleomargarine must be packed only in overt packages. It must not be sold either at home or abroad in ordinary butter tubs, but all packages must be open so that a customer coming into a grocery store can see what package the grocer is scooping the butter from, or the butterine.

Mr. LEVER. Is there any tax on it?

Mr. FREDERICKSEN. No, sir. The consumption of oleomargarine in Denmark is enormous. Butter is the most precious product of the Danish farms. They sell all they make to England, and Denmark has a population of fairly well-to-do people, neither poor nor rich, and the great majority of them eat oleomargarine. The

consumption in Denmark of oleomargarine is over 60,000,000 pounds. The export of butter is over 200,000,000 pounds. There has never that I know of been a case of fraud; at least, they have been so reared that the law is supposed to be perfect in that respect, and that England trusts Denmark to supply genuine butter, to the great relief of the farmers, who, when oleomargarine came upon the market, were afraid they would have their market spoiled. But that has not been the case.

Mr. LEVER. What is the natural color of butter in Denmark?

Mr. FREDERICKSEN. Just the same as here; perhaps not quite so yellow, as Jersey cows are not kept as a rule in Denmark, so that the butter is hardly ever as yellow as it may appear here.

Mr. LEVER. Do they color butter in Denmark?

Mr. FREDERICKSEN. They color it to get it uniform all the year around, and it is so uniform that ten years ago I was over there at a dairy show, and among 100 firkins or tubs of butter exhibited there, some experts with whom I went around could distinguish only two that were not like the others. Ninety-eight of the 100 were absolutely alike.

Mr. LEVER. Is the artificially colored butter over there colored as yellow as it is in this country?

Mr. FREDERICKSEN. Not quite, I think; on the average, not quite.

Mr. LEVER. In other words, the taste of the Danish people is for a butter of a lighter hue?

Mr. FREDERICKSEN. The taste of the English people.

Mr. LEVER. Yes, of the English people. I see.

Mr. RUCKER. Would you be willing for oleomargarine to be manufactured in the United States in shade No. 9 of yellow, and sold as oleomargarine?

Mr. FREDERICKSEN. I do not know that I care to answer that question, gentlemen.

Mr. RUCKER. I would like to have you answer it.

Mr. FREDERICKSEN. I will state my position. I am a manufacturer of butter color, and if oleomargarine is colored, I would sell less butter color.

Mr. PLUMLEY. I do not think he ought to be required to answer.

Mr. RUCKER. Let him answer the question.

Mr. PLUMLEY. I submit that this witness was not called upon that subject, and if he is required to answer Mr. Rucker's question, he becomes Mr. Rucker's witness.

Mr. RUCKER. How is that?

Mr. PLUMLEY. He would be your witness, and you would have to be bound by his testimony. He has been introduced on no other question than what the law is in Denmark.

Mr. RUCKER. But he is a citizen here, and he says he has been in the dairy business ever since he has been here.

Mr. PLUMLEY. I know, but he was not introduced on any other question than that of the Danish law.

Mr. RUCKER. I want his answer to my question.

Mr. PLUMLEY. He has declined to answer, and I am upholding his right to so decline.

Mr. RUCKER. Do I understand you to decline to answer that question?

Mr. FREDERICKSEN. I would like for the chairman to say for me whether he wants me to answer it or not.

Mr. RUCKER. I beg your pardon; I just wanted your personal opinion.

Mr. FREDERICKSEN. Unless the chairman permits me to do so, I will not; I mean our chairman here, Mr. Flanders.

Mr. RUCKER. Very well; let it go, Mr. Stenographer. I will withdraw the question. If a gentleman who appears here himself will not answer unless some other gentleman permits him to do so, I withdraw the question, and I shall disregard his testimony.

Mr. PLUMLEY. I object to this going into the record. This witness was introduced for a certain purpose only, restricted at the time, and it is not proper, and I do not want him to be smirched in the record.

Mr. RUCKER. When a witness goes on the stand he is on the stand for all purposes—any legitimate purpose.

Mr. PLUMLEY. But when it is stated that he is put on for one purpose, and he is questioned about something else, then he becomes a witness of the other party.

Mr. RUCKER. I make him my witness, then. I will repeat the question, if he will answer it as my witness. I do not want to be forced into a position on this question, but it looks like gentlemen want to force me.

Mr. PLUMLEY. I would like this witness to be treated fairly.

Mr. RUCKER. You do not mean to say that I am not treating him fairly?

Mr. PLUMLEY. I think you were not treating him fairly in pressing him in the way you were on a point he was not introduced on. You were pressing him to testify for a purpose for which he was not introduced, and it was not fair usage.

Mr. RUCKER. If he is here to conceal facts instead of to disclose facts—

Mr. PLUMLEY. He has disclosed facts on certain lines and on no others.

Mr. LEVER. I make the point of order that this matter can be submitted to the committee whether this gentleman shall or shall not answer.

Mr. COCKS. I would like to have Mr. Rucker ask him that question again. I thought he asked him about "No. 9," and maybe he did not answer because he did not know what "No. 9" was.

Mr. RUCKER. No; he said that color No. 9 was the color in Denmark.

Mr. COCKS. Is not that the question you asked him?

Mr. RUCKER. No.

Mr. FLANDERS. May I make one statement? I do not think Mr. Rucker heard the statement made by Mr. Fredericksen. He said that he was a manufacturer of butter color, and he did not want to come here and talk on something in which he was interested. We produced him to speak on the Danish law. We knew that he knew what it was, and we asked him to state it for the information of the committee, and I think the gentlemen here did not hear Mr. Fredericksen when he said that he was a manufacturer of butter color and did not want to be heard on that question because he might be put in the position of enhancing his own business.

Mr. RUCKER. That would be pardonable. We would excuse him for that. I did not understand him to say that. I understood him to say that he was in the dairy business.

Mr. HANNA. Did you not say you were here in the dairy business?

Mr. FREDERICKSEN. No, sir; I said that I was connected with the dairy business, and attending on dairy business.

Mr. RUCKER. Mr. Chairman, since I have been reprimanded by my colleague and sat down on by the witness, I withdraw the question; but I want to say this: That any gentleman testifying here will have a better influence, so far as guiding my mind is concerned, if he will answer directly questions that are asked him.

Mr. FREDERICKSEN. I am willing to answer anything directly.

Mr. BURLESON. I want to ask you about the Danish law. You have given us a very clear, succinct statement of what the Danish law is. I think it is a fair law, myself. I want to know whether you think it is a fair law.

Mr. FREDERICKSEN. I do.

Mr. BURLESON. You do?

Mr. FREDERICKSEN. Yes.

Mr. BURLESON. Stand aside.

Mr. COCKS. Who is your next witness, Mr. Flanders?

Mr. FLANDERS. Mr. Glover, of Wisconsin.

Mr. RUCKER. Will Mr. Flanders permit me to ask him one question while he is on the floor?

Mr. FLANDERS. Certainly.

Mr. RUCKER. You heard the witness who was just on the stand give an outline of the law of Denmark, in which he stated that under the law there oleomargarine is permitted to be manufactured without a tax in a shade of yellow called "No. 9?"

Mr. FLANDERS. Yes.

Mr. RUCKER. Are you willing to have a shade similar to that adopted as "No. 9" in this country?

Mr. FLANDERS. Mr. Chairman, I do not know what "No. 9" means, and I further say—

Mr. RUCKER. It is a shade of yellow.

Mr. FLANDERS. I know, but the shade is what would bother me.

Mr. RUCKER. I know. That is all.

Mr. FREDERICKSEN. I did not say "No. 9." Somebody else suggested that.

Mr. HAUGEN. Did you get through with your statement?

Mr. FREDERICKSEN. Unless somebody wants to ask questions. I did not say "No. 9."

Mr. FLANDERS. Very well; if the misunderstanding is as to No. 9, I will say that I do not know what the shade is that the Danish law provides for, and I would be in an equal dilemma.

Mr. RUCKER. I want to help you a little. It is a shade of yellow. Are you willing to have such a shade adopted in this country?

Mr. FLANDERS. I will have to ask to be excused on that.

Mr. HAUGEN. That No. 9 is whatever the Government fixes?

Mr. FLANDERS. I do not know.

Mr. HAUGEN. Those shades are prepared and that acts as a guide for the manufacturer?

Mr. FLANDERS. Yes; it does over there, as I understand it.

Mr. HAUGEN. They are fixed by the Government?

Mr. FLANDERS. Yes.

STATEMENT OF MR. J. J. GLOVER, SECRETARY OF THE WISCONSIN DAIRYMAN'S ASSOCIATION.

Mr. GLOVER. I am secretary of the Wisconsin Dairyman's Association, and assistant editor of Hoard's Dairyman.

To my mind, the question under consideration resolves itself into a very simple proposition, and that is to take the yellow coloring out of oleomargarine. Whether this must be done under the taxing clause of the Constitution, or may be done under the interstate-commerce law, is a problem for constitutional lawyers.

We know that wild-cat currency was put out of existence by taxation. This money was an evil, and the Government used its taxing power to get rid of it. When oleomargarine is permitted to be colored yellow it gives ample opportunity for those dealing in it to practice fraud; that is, to sell it and use it as butter.

If a tax of 10 cents a pound will not keep oleomargarine from masquerading as butter, then levy a tax of 15 or 20 cents a pound. It should make no difference whether oleomargarine is artificially colored or colored with so-called natural ingredients. If it had a yellow color we would impose a tax heavy enough to make its production unprofitable, unless some better way to accomplish the same end may be devised.

Butter has some rights, and it is the duty of the lawmakers to protect it from fraud. A person who has a trade-mark has it protected by law, and why should not the dairymen have their trade-mark of butter protected?

Whether one can distinguish oleomargarine from butter by taste, or whether it is so good or as nutritious as butter, or what not, it certainly is not butter, and this has nothing to do with the case. Whether oleomargarine makes a profitable outlet for cotton-seed oil or not is entirely without the question. It can be said, however, that those countries and localities which have fostered dairying are the richest, and if the South wants to build up her soil nothing will do it faster or better than dairying.

If the question is considered only in a cold-blooded way, then there is nothing in the proposition except to force oleomargarine to stand upon its own merits, and to sell to the purchaser and serve to the consumers in hotels and restaurants and boarding houses in its natural color, which is white, according to the testimony of Mr. John F. Jelke, who was a representative of the oleomargarine interests at the hearing of April 20. If the consumer wishes to color oleomargarine yellow before using it he has, of course, a perfect right to do so; but so long as oleomargarine is given the right to be colored yellow, artificially or otherwise, by manufacturers or dealers, fraud and deception not only may be, but will be, practiced. Yellow is the trade-mark of butter, and the manufacturers of oleomargarine have no right to adopt or use this trade-mark. To permit such use is in direct contravention of every principle of justice and equity. I might add that the counterfeit silver dollar may contain just as much silver as the genuine, but the Government does not permit its subjects to make silver dollars. The Government goes so far as to make it a punishable offense to manufacture paper with silk threads in it or paper resembling that which is used for paper money. If my understanding is correct, this is done to minimize the opportunity and facility for counterfeiting.

If the Government has power to protect its money, why has it not the power and the inclination to protect its industries? If it is necessary and expedient to keep silk threads out of paper to prevent fraud and counterfeiting, why is it not wise and expedient to keep yellow coloring matter out of oleomargarine, especially since the natural color of this product is white?

The man who manufactures paper to resemble that which is used by the Government in printing its paper currency is an accessory before the fact to the crime of counterfeiting. The man who colors oleomargarine to look like butter is an accessory before the fact in an attempt to defraud and deceive the public and should be held in the same estimation and legal accountability as the man who manufactures paper to resemble that which is used by the Government for its paper currency.

Mr. RUCKER. You have in very elegant language and forcible figures made a contrast between counterfeit money and genuine money, and you speak of the fact that the Government prohibits the manufacture of paper with silk threads in it, except for government use, under severe penalties fixed by law. You understand that the reason for that is to prevent anybody except the Government from making money, is it not?

Mr. GLOVER. Yes.

Mr. RUCKER. And money is a mere medium of exchange, representing the values of property?

Mr. GLOVER. Yes.

Mr. RUCKER. Now, oleomargarine is purposely made to take the place of—as a substitute for—butter, is it not, as a food product?

Mr. GLOVER. We have no objection to that, provided it sells for oleomargarine.

Mr. RUCKER. But from that it looks to me like you want to come down on any man who makes oleomargarine, just like the federal statutes come down on any man for making counterfeit money.

Mr. GLOVER. I want the penalty levied for committing a fraud.

Mr. RUCKER. If penalties can be levied against the making of oleomargarine, which will certainly protect the consumer so that he will know that he is getting oleomargarine when he buys it, would you then object to its manufacture and sale?

Mr. GLOVER. I have no objection to the manufacture and sale of oleomargarine on its own merits.

Mr. RUCKER. Have you any objection to its manufacture in its yellow form if it is sold on its merits as oleomargarine?

Mr. GLOVER. You could sell it colored to the purchaser for what it is, but I object to that because you can not let the consumer in hotels and restaurants, and so forth, know that it is oleomargarine.

Mr. RUCKER. One of the gentlemen objected to going on inferences and going on assumptions. Now, I want to be entirely respectful, you understand.

Mr. GLOVER. I want to be fair in my statement, absolutely.

Mr. RUCKER. You believe that Congress is unable to frame a law that would give protection? My question is based on the theory that Congress can enact a law which would give absolute protection to the consumer. Would you then have any objection to the yellow color in the oleomargarine?

Mr. GLOVER. I have no objection to the color being in oleomargarine if the ultimate consumer knows that it is oleomargarine.

Mr. RUCKER. That is a frank answer and is entirely satisfactory to me.

Mr. HANNA. Have you any idea of the amount of butter that is produced in the United States?

Mr. GLOVER. No, sir.

Mr. HANNA. Or of the proportion it bears to the oleomargarine?

Mr. GLOVER. No, sir.

Mr. HANNA. Or of the number of people engaged in the production of butter?

Mr. GLOVER. No, sir; but those figures will be brought out here.

Mr. LEVER. Nor of the proportion of the butter consumption in the hotels and restaurants?

Mr. GLOVER. No, sir.

Mr. COCKS. I do not think Mr. Hanna has finished.

Mr. LEVER. I beg your pardon.

Mr. HANNA. I was going to follow that up in this way: If it be a fact that a great many people in the United States are engaged in the production of butter, I was going to ask him, provided the conditions were reversed, and there was a very small amount of butter produced and a very large amount of oleomargarine produced, what is going to become of these people who are now engaged in this great, big industry of making butter in the United States?

Mr. GLOVER. That is a matter of speculation, what would become of them. But that point has not particularly concerned me. I am concerned about the fraud that exists in regard to oleomargarine. I believe it is wrong to sell something for what it is not, and my experience as an inspector gave me an insight into many of the fraudulent methods that are practiced by all sorts of moonshiners in getting their oleomargarine to the ultimate consumer as butter, and I can not see any other course than to deny to the manufacturers of oleomargarine the right to color their product to resemble yellow butter.

Mr. HANNA. Take, now, out on the farm, a man who is engaged in dairying and the raising of cattle to a greater or less extent; suppose that he had to go out of the dairy business and the production of butter, what effect would that have on the production of beef cattle?

Mr. GLOVER. He would undoubtedly go over into the production of beef cattle or some sort of live-stock farming.

Mr. HANNA. You think he would go into that; but would it not have a tendency to stop the production of beef?

Mr. GLOVER. No; it would make a greater production, and it would undoubtedly have the result of lowering the beef steer, and the beef men would necessarily have to lose.

Mr. HAUGEN. It would ruin the farmer?

Mr. GLOVER. Yes; the prices that the dairyman must pay now for his meal feed are so great that there is no large profit in dairying. It is only the man with the exceptionally good dairy cow that is making a reasonably good living. The man with the ordinary dairy cow to-day, gentlemen, is just about paying expenses.

Mr. LEE. What is he getting for his butter, about?

Mr. GLOVER. The average price last year was around 31 cents a pound for butter fat. If you add one-sixth to that you will have it.

Thirty-one cents a pound for butter fat—that is about what the Elgin market was last year.

Mr. LEVER. If the Elgin market can reduce the price of butter 6 cents in one week, is not that a pretty good evidence that there is a butter trust?

Mr. HAUGEN. In one day.

Mr. LEE. By telegraph.

Mr. GLOVER. You are a better judge than I am of that. I know nothing about the markets. I have some conception what it costs us to produce butter fat.

The CHAIRMAN. I would like to ask a question or two about the laws of Wisconsin.

Mr. GLOVER. We have a gentleman here who will speak on that. He is thoroughly versed in that.

The CHAIRMAN. I thought you spoke about being an inspector.

Mr. GLOVER. That was in Minnesota, and it was ten years ago that I speak of.

Mr. HAUGEN. If Congress should remove all restrictions and allow oleomargarine to be sold as butter, unrestricted, what would become of the dairy people?

Mr. GLOVER. The dairy people would suffer, and many of them would go out of business. It would force them out.

Mr. HAUGEN. It would practically force them out. Now, follow that up. What would happen to the balance of the farmers? Is it possible now to carry on farming without stock or cows?

Mr. GLOVER. It is quite safe to say that it is practically impossible to continue agriculture, permanent agriculture, without the use of live stock.

Mr. HAUGEN. It is necessary—to fertilize the soil?

Mr. GLOVER. Yes.

Mr. HAUGEN. And farming can not be carried on successfully without fertilizing the soil?

Mr. GLOVER. Except in Mr. Burleson's district. [Laughter.]

Mr. HAUGEN. Statistics go to show that. They refer to Denmark, Germany, and England?

Mr. GLOVER. Yes.

Mr. HAUGEN. Those countries produce twice as much as the United States, per acre, of wheat, and the various cereals on the farm, and that, as I understand, is due to the intense cultivation and fertilizing the soil?

Mr. GLOVER. Yes. I could not tell you how much, but they are producing more than we are, notwithstanding they are older countries. That is my understanding. Exactly how much I would not want to state.

Mr. McLAUGHLIN. Down in Mr. Burleson's district they are satisfied to continue as they were before. They do not want to raise any more per acre; is that right?

Mr. GLOVER. That is what he says.

Mr. BURLESON. We are reasonably prosperous down there, and if you will relieve us of these inequitable and unjust laws, we will be more prosperous.

Mr. GLOVER. I do not see how this is unjust.

Mr. BURLESON. You say your sole object is to eliminate the fraud. If that can be done without the levying of a tax on a wholesome food product, you are willing to have it done?

Mr. GLOVER. Why, granting that.

Mr. BURLESON. That is what you said the other day and you still adhere to it?

Mr. GLOVER. Yes; that is all I am after, to get rid of the fraud.

Mr. BURLESON. In response to Mr. Haugen you said if the unrestrained sale of oleomargarine was permitted in competition with butter, and it was sold as butter, it would prove very disastrous to the dairy interests. On the other hand, if we can pass a law here that will prevent the fraudulent sale of oleomargarine as butter, it would be helpful to the butter interests, would it not?

Mr. GLOVER. Yes.

Mr. BURLESON. It would, would it not?

Mr. GLOVER. Why, yes—as butter. That is all we ask for. That is all the contention—that oleomargarine shall not be served and sold as butter.

Mr. BURLESON. As butter. You do not care anything about the butter, then, if they prevent the fraudulent imposition upon the public of oleomargarine as butter, do you?

Mr. GLOVER. If you can protect the ultimate consumer, the man that lives in the hotel and restaurant.

Mr. BURLESON. Ah, Mr. Glover, that is a matter of police regulation.

Mr. GLOVER. Yes, sir.

Mr. BURLESON. And the Federal Government has nothing whatever to do with that.

Mr. GLOVER. For that reason you are asking me an impossible question to answer.

Mr. BURLESON. And every State can control that for itself, can it?

Mr. GLOVER. Not, as I understand, if we pass the Burleson bill. It takes the state control away from it.

Mr. BURLESON. The bill introduced by me would not limit the power of the State in the exercise of the police power. It could not do it. If it did, it would be unconstitutional.

Mr. GLOVER. Well, I do not care to discuss the bill, because I am not posing as a lawyer.

Mr. BURLESON. Then if you are laboring under a misapprehension about that, if you are mistaken about it and the bill introduced by me does not limit the State in the exercise of its police power——

Mr. GLOVER. Would it not be well for you, Mr. Burleson, to present that bill so that we could have a chance to see it and answer questions on it, instead of putting hypothetical questions to us?

Mr. BURLESON. It has been presented.

Mr. GLOVER. As near as my judgment will tell me, your bill does repeal the only part of the Grout bill which is really effective to us.

Mr. BURLESON. Why, the exercise of the police power by the State is one of its reserved rights, and was not conferred upon the Federal Government by the Constitution; and no act of the Federal Government or the Federal Legislature could possibly impair that right. But that is neither here nor there.

Mr. GLOVER. The State has nothing to say about the cigar box, the package.

Mr. BURLESON. You spoke a moment ago about the hardship on the dairyman; you said that he was barely making a good living. You are the associate editor of Hoard's Dairyman, I believe?

Mr. GLOVER. You did not state all my answer. I said that the man with the ordinary cow, doing ordinary work, with present prices of feed was scarcely making a good living.

Mr. BURLESON. In a certain issue of your paper, speaking of the ordinary man, the dairyman with the cow, did you not say of him:

"They have arrived. They have model farms equipped with every modern appliance. They wear good clothes. Their wives and daughters vie in style with their city sisters. There is no reasonable luxury beyond their reach."

I will ask you to look at that and see if you are not familiar with it.

Mr. HAUGEN. What part of that would you deprive him of, Mr. Burleson?

Mr. BURLESON. I want to see where he finds these dairymen he is now describing before this committee; if they are the same dairymen he describes in this issue of his paper.

Mr. GLOVER. If you will read the cow census which Hoard's Dairyman has been running in New York, you will find that many of them are not receiving as much out of their cows as they are paying for their feed and care. Now, if you want a fair statement from me, be fair with me. Do not take an exceptional statement of a man that is doing real well. I do not know that that is my paper you are reading from.

Mr. BURLESON. That is from your own paper. Look at it [handing paper to witness].

Mr. GLOVER (after looking at paper). I am not in the advertising department. That is an advertisement in the business department. The business manager has that entirely in his control.

Mr. BURLESON. Are you familiar with the terms of the McHenry bill?

Mr. GLOVER. Some of them.

Mr. BURLESON. One of the provisions of the McHenry bill is the following:

For the purpose of this act, oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be classed and taxed as colored oleomargarine.

If it was impossible to manufacture oleomargarine during a certain period of the year without a shade of yellow, would you still insist that upon every pound of it manufactured of a shade of yellow there should be a 10-cent tax?

Mr. GLOVER. I should have to insist upon that to prevent the fraud, because I know of no other way of getting rid of the fraud.

Mr. BURLESON. Now, if a poor man, when butter was selling at 40 cents a pound—as it was mentioned awhile ago by one of your witnesses on the stand that butter was selling at 40 cents a pound—came to the conclusion that he could not afford to consume butter at that price and wanted a substitute for it, and wanted oleomargarine, and he wanted it colored yellow, would you insist that he should pay the 10-cent tax?

Mr. GLOVER. Yes; because he could easily have his oleomargarine yellow. I went the other day to one of the stores in town and I bought a package of white oleomargarine and I took it home and put my capsule of color in it, and inside of two minutes I had a June yellow in my oleomargarine.

Mr. BURLESON. Then your answer is that you would either force him to use white oleomargarine or force him to color it himself; is that your answer?

Mr. GLOVER. Being such a slight thing to do, to give an opportunity to prevent fraud I should say, let him take his capsule and color it. Now, we must do certain things to prevent fraud. All honest men are handicapped by that.

The CHAIRMAN. I am very much interested in what you say about the importance of this 10-cent tax as an agency for preventing fraud. I would like to have you expand on that proposition a little bit, in the light of this statement. I am told—I think it is in evidence here—that the wholesale price of the best grade of oleomargarine now is 16 cents. If we add the 10-cent tax to that, it will bring the price to the retailer up to 26 cents a pound. I suppose the retailer would be satisfied with a profit of 4 cents a pound, would he not? Would that be a fair profit?

Mr. GLOVER. I would consider it a fair profit.

The CHAIRMAN. So that that would bring the price at which the retailer could legitimately sell colored oleomargarine up to 30 cents, and the price of butter this year in all the cities has not been less than 40 cents?

Mr. GLOVER. Yes.

The CHAIRMAN. So that there would be a difference of 10 cents a pound to his advantage, even after he had paid all the tax and added his normal profit. Now, why would not that 10-cent differential be an incentive to the dishonest man to fraudulently sell his colored oleomargarine for butter?

Mr. GLOVER. You perhaps were not here, Mr. Chairman, when I read that part of my statement. I said if the 10-cent tax would not keep the fraud out of oleomargarine, then impose a tax of 15 cents or 20 cents a pound; and I do not know that I said it in my statement, but I say now, make it high enough to prevent the selling of yellow oleomargarine.

The CHAIRMAN. Oh; your idea, then, is that the tax ought to fully represent the difference between the price of the uncolored oleomargarine and butter?

Mr. GLOVER. Yes.

The CHAIRMAN. And in that way you would prevent the fraud?

Mr. GLOVER. Yes; because I look at it like this: It does not tax, really, the oleomargarine; it taxes the fraud, because you can to-day buy oleomargarine in Wisconsin for 20 cents a pound, and you could not do that when they were permitted to color it, because they would sell it for more, when it was colored.

The CHAIRMAN. I see the point.

Mr. HAUGEN. Your point is that taxing it to the extent of the difference of the cost between oleomargarine and butter removes the incentive to practice the fraud?

Mr. GLOVER. Yes, sir.

Mr. HANNA. What does the uncolored oleomargarine sell for, generally?

Mr. GLOVER. At Fort Atkinson it has been 18 to 22 cents, uncolored.

Mr. HANNA. What did the colored sell for?

Mr. GLOVER. I did not see any.

Mr. HANNA. It sold for at least 10 cents higher?

Mr. GLOVER. I could not say.

Mr. HANNA. What does one of these capsules cost?

Mr. GLOVER. Nothing.

Mr. HANNA. So that if a poor man wants his oleomargarine colored, the best thing for him to do is to get a capsule with his oleomargarine and put the color in it himself, and save 10 cents a pound?

Mr. GLOVER. Yes.

The CHAIRMAN. Then, as a matter of fact, from your point of view, the tax ought to be more than 10 cents a pound?

Mr. GLOVER. I would hesitate to say how much it should be, but enough to get the fraud out of oleomargarine, to prevent the manufacture of yellow oleomargarine, or in any shade of yellow.

Mr. LEVER. That would represent the difference in the price between the uncolored oleomargarine and the price of butter, the tax that you advocate?

Mr. GLOVER. Yes; I guess that is right.

Mr. LEVER. That is a new proposition before the committee.

Mr. LAMB. Yes; that is a new proposition.

The CHAIRMAN. In order, then, to frame a law that would be effective from your point of view for any considerable period of time, you would have to make that tax, say, 20 or 25 cents?

Mr. GLOVER. It would make no difference to the consumer if it was 50 cents or \$1 a pound. My idea is to prevent the coloring of oleomargarine, because I see no other way that it can be honestly placed to the consumer.

The CHAIRMAN. You heard what the Commissioner of Internal Revenue said here?

Mr. GLOVER. Yes.

The CHAIRMAN. About the difficulty in enforcing the law, because there was so much difference between the two taxes?

Mr. GLOVER. Yes.

The CHAIRMAN. He spoke of that as an incentive to fraud.

Mr. GLOVER. Yes.

The CHAIRMAN. Did that impress you as being worthy of much consideration?

Mr. GLOVER. Well, I do not want to stand here and criticise the commissioner, but I think we all know that the artificial coloration permitted by that bill really makes it inoperative. Then the word "knowingly" is in the bill, and the bill also does not contain those clauses which are incorporated in most revenue acts. The commissioner made three suggestions, I think; one he calls the "joker," which is the clause as to artificial coloration; and the stamp, and I think the package; I am not sure. But there is a clause also inserted in that bill which says "knowingly," which makes it a very hard thing to enforce; it is a very hard thing to prove that a man did it knowingly.

Mr. BURLESON. You would not punish a man for a crime who does not know that it is a crime?

Mr. GLOVER. Does not the Government?

The CHAIRMAN. What would you think of the suggestion I made a while ago, that the bill might designate the recipe, if you might so call it, which should be used in the manufacture of oleomargarine?

Mr. GLOVER. Well, I do not know what to say to that. It would be a matter of opinion, and I have not thought of it, and my opinion would not be worth much.

The CHAIRMAN. I would like to have you think about it, because I suggest it in all good faith.

Mr. GLOVER. I know it, and I would answer you if my opinion was worth anything. I will think it over and be willing to give you my best judgment on it.

The CHAIRMAN. Are there any further questions?

Mr. FLANDERS. My next witness is Mr. Emery, dairy and food commissioner of the State of Wisconsin.

STATEMENT OF MR. J. Q. EMERY.

Mr. EMERY. I am the dairy and food commissioner of Wisconsin. I am a member of the Wisconsin Dairyman's Association, and a life member of the executive board. I am a member of the Wisconsin Cheese-Makers' Association. I am a member of the Wisconsin Butter-Makers' Association, and I am a dairyman. I am not an expert cheese maker, nor am I an expert creamery butter maker. I come here in response to the wishes of the governor of Wisconsin. I might say that I am not here, really, of my own choice. He expressed the wish that I should come here, and if called upon should represent to the best of my ability the best interests of the State of Wisconsin. It is my judgment that the best that I can offer on this question is an extremely brief statement, and if I may be permitted to make my statement without being questioned until I am through I think I can finish inside of ten minutes a brief statement of the effort of Wisconsin to eliminate fraud from the sale of oleomargarine. Wisconsin was one of the first States, if not the first State, to undertake to regulate by law the manufacture and sale of oleomargarine. The first of such laws was enacted in 1881. It was merely a label law, and proved ineffective.

In 1885 the legislature of Wisconsin again grappled with the problem; but the resulting law proved ineffective in preventing the sale of oleomargarine as butter.

In 1889 another effort was made by the legislature to prevent the fraudulent sale of oleomargarine as butter.

To show the results of all these efforts of the legislature for a period of eight years to prevent by label laws the fraudulent sale of oleomargarine as butter, I quote from the report of the state dairy and food commissioner for 1890. That was the first dairy and food commissioner of Wisconsin, and this was his statement:

We should strip oleomargarine of its power, and that can only be done by obliging manufacturers to make it look like itself and not like butter. Butter has worked for all these years to make for itself a market and a demand. Now that they are established, it should not be robbed by an imitation. The attack has but just begun. No corner of the State is too remote for its presence, no table so humble, no dining room so grand, no lumber camp so rough that oleomargarine, with its mellow name, will not walk upon and into with a deceitful bow and brazen smile with the claim that its name is "butter."

That was the condition in the State of Wisconsin at that time, after eight years of effort there.

The legislature of 1891 again sought to remedy the fraud by the enactment of a new, elaborate label law. After this law had been on

trial for four years, Dairy and Food Commissioner H. C. Adams, in his biennial report, stated:

The law was not only violated by the sale of unlawful packages by grocerymen to customers ignorant of their character, but it was also violated when purchasers of butterine bought the article for what it was, and then placed it upon the tables of restaurants, boarding houses, and hotels for the consumption of guests who supposed they were eating butter.

Thus fourteen years of strenuous effort to drive the fraud out of the oleomargarine business by label laws had proven comparatively ineffective, and oleomargarine continued with brazen effrontery to masquerade through the State as butter.

Having by fourteen years of experience learned the ineffectiveness of label laws to do away with the fraud, the legislature of 1895 determined to make the color of oleomargarine its own open declaration of its lawful or unlawful character, and enacted a law making it a misdemeanor to sell in the State oleomargarine that was "in imitation of yellow butter," but permitted the sale of oleomargarine free from coloration or ingredient that caused it to look like butter, and in such form as to advise the customer of its true character.

In the administration of that law Commissioner Adams brought prosecutions against dealers who sold oleomargarine "in imitation of yellow butter," secured convictions of the same, and drove the unlawful product from the Wisconsin market. But lawful oleomargarine in abundance was sold upon our markets and at oleomargarine prices. This law as administered by Commissioner Adams succeeded in its purpose.

In May, 1902, Commissioner Adams resigned to become a candidate for Congress. There followed a vacancy in the office of dairy and food commissioner until December 24. Meanwhile, the national law of 1902 had taken effect, and the State had been flooded with oleomargarine in semblance of yellow butter, made such by means of the selection of material, other material being available. Prosecutions followed, resulting in the sustaining and interpreting of the law by the state supreme court. Since that decision the Wisconsin market has been freed from oleomargarine in imitation of yellow butter, and lawful oleomargarine has taken its place in great abundance.

During the two weeks from April 25 to May 7, 1910, an investigation or inspection was made of oleomargarine on the Wisconsin market. That inspection confirmed what had been before known, that practically all of the oleomargarine sold on the market in Wisconsin is of the kind described by Mr. Jelke as white. Only one dealer of the 63 investigated or inspected was handling oleomargarine that could in any way be regarded as in semblance of yellow butter. I have here samples of the kinds found on the market. That is, I have not brought the 63 samples, but these that I have here represent the samples as found upon the market.

[Mr. Emery here produced the samples referred to and exhibited them to the committee.]

Sixty-three dealers were selling, according to their own statement, 6,758 pounds of oleomargarine a week. These are believed to represent the average of sales in the State. At the same rate the 1,651 dealers in oleomargarine in Wisconsin were selling 177,000 pounds of oleomargarine a week, and practically all of it was white. The same dealers were selling a little more than twice that amount of butter.

It should be understood, of course, that other dealers were engaged in the sale of butter and not in the sale of oleomargarine. The wholesale price of the oleomargarine varied from 12½ cents to 17 cents a pound. The retail price of the oleomargarine varied from 18 cents to 23½ cents a pound. These statements were taken, the statements made by the dealers, and in many cases the bills were shown to the inspectors to verify the statements.

The wholesale price of the butter varied from 29 cents to 32 cents a pound. The average per cent of profit of oleomargarine on the wholesale price was 24.9. The average per cent of profit on the wholesale price of butter was 10.6; that is, the average per cent of profit of the wholesale price of the oleomargarine was found to be 2.35 times the average per cent profit on wholesale price of butter.

Under the Wisconsin law, as enforced, the laboring man or any other man who wants oleomargarine can now get it, and at oleomargarine prices. And if he wants butter, he is sure to get butter, and not oleomargarine at butter prices. This is the end sought by legislation on this subject in Wisconsin.

The CHAIRMAN. Have you finished?

Mr. EMERY. I have two letters I would like to submit.

The CHAIRMAN. Very well.

Mr. EMERY. I have here a letter that I wish to submit from Dr. H. L. Russell, dean of the College of Agriculture of the University of Wisconsin. Doctor Russell is a bacteriologist. He made special preparation for his studies in this country and in Europe. He was a student under the great Doctor Koch. For many years he was the professor of bacteriology in the Agricultural College of the University of Wisconsin. When Dean Henry resigned he then was promoted to that position, which he now occupies, and Doctor Ravenel took his place. Before coming here, without seeing the printed reports of this committee, my information came simply from what I had seen in the papers, and I directed a letter to Doctor Russell, as follows:

MAY 2, 1910.

Dr. H. L. RUSSELL,

Dean, College of Agriculture, University of Wisconsin, Madison, Wis.

DEAR SIR: Press reports of the hearing before the Committee on Agriculture of the House of Representatives, Washington, D. C., on the subject of oleomargarine are to the effect that testimony has been offered that poisonous germs are found in many grades of butter, including various diseases, which are thus propagated in the human race.

I would be glad to receive a statement from you, as a bacteriologist, whether, in your judgment, there is any practical danger of the spread of disease through the use of butter as a food.

Very truly, yours,

J. Q. EMERY, *Commissioner.*

To this letter I received the following reply:

THE UNIVERSITY OF WISCONSIN,
Madison, Wis., May 6, 1910.

Hon. J. Q. EMERY, *Madison, Wis.*

MY DEAR PROFESSOR EMERY: Upon my return to the city I find your communication of the 2d instant, asking my opinion in regard to the matter of whether or not there is any practical danger of the spread of disease through the use of butter as a food. Regarding this matter, I would say that there is a possibility of tubercle bacilli finding their way into milk either through the direct infection of the milk while in the udder or through the contamination of the milk from the introduction of organisms from the outside. The feces of tuberculous cattle frequently contain tubercle bacilli, and the ease with which manure particles find their way into milk makes this a pos-

sible source of infection. In the manufacture of butter from such milk it is possible that some of the tubercle bacilli may be carried over into the butter, but when the well-ascertained fact is taken into consideration that the danger of transmission of tuberculosis from the bovine to the human is, so far as known, limited to the infection of infants and young children, through the medium of milk, and no authenticated case (to my knowledge) has ever been traced to the use of butter, the danger, from a practical point of view, may be regarded as negligible.

It is well recognized that the intestinal tract of the adult is comparatively insusceptible, and the theoretical possibility of butter functioning as a factor in the production of disease in children is, from the very nature of events, so exceedingly slight as to make this a question of academic rather than practical significance.

The fact that may be adduced that the tubercle bacillus may live in butter for a number of weeks, or possibly months, is of no value in the consideration of this question so long as there is no evidence at hand which would indicate that disease has been actually caused by the use of butter.

Trusting that this information may serve your needs, I am,

Yours, truly,

H. L. RUSSELL.

Now, I ask permission to submit a letter from Dr. S. M. Babcock, of the University of Wisconsin. Doctor Babcock is the inventor of the Babcock test. He is a man who has spent all his life in original investigation—a man of international fame. I directed to him this letter:

MAY 4, 1910.

Dr. S. M. BABCOCK,

University of Wisconsin, Madison, Wis.

DEAR SIR: Newspaper accounts of certain testimony offered before the Committee on Agriculture of the House of Representatives are to the effect that "oleomargarine is composed of substantially the same constituents as butter."

I should be glad to learn from you whether you regard the foregoing statement as true; and if not true, I should be glad to have you point out the differences between the constituents of oleomargarine and butter.

Very truly, yours,

J. Q. EMERY, *Commissioner.*

To that letter I received from Doctor Babcock the following reply:

THE UNIVERSITY OF WISCONSIN,
Madison, Wis., May 5, 1910.

Mr. J. Q. EMERY, *City.*

DEAR MR. EMERY: Your letter of May 4 in regard to the difference in composition of butter and oleomargarine is duly received. The statement to which you refer, to the effect that oleomargarine is composed of substantially the same constituents as butter, is not true, since the fats composing these two products are essentially different in several particulars. The most obvious difference is found in the character of the fatty acids which these products contain. Portions of the fatty acids found in butter are volatile and soluble in water. These acids are almost entirely absent in oleomargarine fats. It is upon this difference that chemists depend for the detection of adulterations in butter. The difference, however, does not end here, for while the insoluble fatty acids of both butter and oleomargarine are generally supposed to consist chiefly of olein, palmitin, and stearine, there are marked differences in their properties, which chemists have not been able to satisfactorily explain. This difference is clearly shown by comparing the viscosity of solution of soaps made from butter and oleomargarine fats or from the insoluble fatty acids derived from them.

The fats from oleomargarine form soaps which are much less soluble than soap from butter fats, and the solutions of oleomargarine soaps have a much higher viscosity than butter soaps. This indicates beyond question that the constitution of the two fats is entirely different, although the nature of the difference is not at present understood.

In order that you may see how marked this difference is, I send you under separate cover an abstract from the Fifth Annual Report of the New York Agricultural Experiment Station, in which you will find on pages 338 to 345 an article bearing on this subject. The table given on page 342 illustrates the point which I make. Please return this report to me when you are through with it, as it is the last copy which I have.

Very truly, yours,

S. M. BABCOCK.

The CHAIRMAN. May I ask you a question now, Professor?

Mr. EMERY. Yes, sir.

The CHAIRMAN. Does the Wisconsin law contain the original-package provision?

Mr. EMERY. No, sir. Now, original package, in one sense—you understand that the contents of the 10-pound tubs when sold by the retailer must be sold from that original package.

The CHAIRMAN. But you do not require the goods to be sold in the unbroken package?

Mr. EMERY. No, sir.

The CHAIRMAN. You depend, then, entirely upon the color provision in the law?

Mr. EMERY. Yes.

The CHAIRMAN. And your experience has been that it is entirely effective?

Mr. EMERY. I have given you the success of that, and you have seen this oleomargarine. We call these samples strictly in compliance with the law; I think they may fairly represent the condition of the color, and of the 63 only one could we find any fault with.

The CHAIRMAN. Does Wisconsin need any additional federal legislation on the subject?

Mr. EMERY. We are not asking for it.

The CHAIRMAN. Is it your opinion that laws similar to those effective in Wisconsin would be equally effective in other States? That is, do you know any reason why they should not be?

Mr. EMERY. Of course, laws are effective and enforceable owing to public sentiment and conditions. I do not know the conditions of other States as to the possibility of enforcement.

The CHAIRMAN. You know that this law has proven effective?

Mr. EMERY. I know that this law has proven effective, after twenty-seven years of effective effort, and in its twenty-eighth and twenty-ninth years we have got it pretty effectively enforced.

The CHAIRMAN. You have shown the committee seven samples, numbered consecutively?

Mr. EMERY. Yes.

The CHAIRMAN. From 1 to 7?

Mr. EMERY. Yes.

The CHAIRMAN. Were these intended to be numbered with any respect to their color.

Mr. EMERY. No, sir; they were numbered so that they could be known, in respect to the brand, if it was desired to know that. They have the brands of the manufacturers, and I have those brands and numbers here.

The CHAIRMAN. You regard all of these samples as coming within the law?

Mr. EMERY. All, with one exception. There is one exception there; one out of 63 that I do not regard as in compliance with the terms of the law.

The CHAIRMAN. That is No. 7?

Mr. EMERY. Yes; No. 7.

The CHAIRMAN. Which seems to be yellowish?

Mr. EMERY. Yes; it seems to be in semblance of yellow butter.

The CHAIRMAN. All of the others you do not regard—

Mr. EMERY. No, sir; I regard them as lawful in Wisconsin.

The **CHAIRMAN** (continuing). As overstepping the bounds?

Mr. **EMERY**. No, sir.

Mr. **NELSON**. Do you find in the administration of the law any difficulty at all in enforcing the anticolor provision because the white is claimed to have some semblance of color? I mean, is it not easy to tell whether oleomargarine has been colored or not, so as to conform to the law?

Mr. **EMERY**. Well, let me explain that. When I became dairy and food commissioner, after Mr. Adams's resignation and an intermission of six months, a new condition of things had arisen. Up to the time of the enactment or taking effect of the law of 1902 the oleomargarine manufacturers, so far as my knowledge extends, had never claimed that the natural color of oleomargarine was yellow. The Supreme Court of the United States declared in the Plumley case that oleomargarine in its natural state has a light straw color; but now the discovery was made, almost as suddenly as that of St. Paul on his way to Damascus, that the natural color of oleomargarine was yellow, and this coloration was caused by the selection of material, and that material—that is, largely—is oleo oil, that comes from old cows and from grass-fed cattle, and according to the testimony given by oleomargarine men in our test cases that went to the Supreme Court, they claimed first that they could not make oleomargarine if the law was enforced, and later they claimed and admitted, which was proven in court, that this material is gathered up at certain seasons of the year and is held, and these grades of oleo oil are separated, one as yellow as gold and the other white, and the white comes from stall-fed cattle, and there are other intermediate grades, and a lot of it is shipped to Europe.

When the case came to the supreme court of Wisconsin, that court held that the article being in imitation of yellow butter implied a conscious imitation, and held that this conscious imitation might consist of one of two things—either the addition of the dye, as they call it—artificial coloring—which they said was plainly to be detected and discerned as artificial coloring in the selection of material, other material being available, and they went on to elaborate upon that; but they said in that decision that inasmuch as there was a reversion of the court below on a technical case, they took occasion to say that it was their judgment that in one of those cases where it was asked to have the judge's ruling overruled—the direction of the jury overruled—there was evidence before the jury warranting the jury to infer that there was a conscious selection of material to make the oleomargarine yellow.

Mr. **NELSON**. Supposing we provide in the law that it shall not have any shade of yellow. In your experience in the administration of the law would there be any difficulty in the court saying which was white and which was yellow, between those two, so as to make any practical difficulty in the working of the law [indicating samples]?

Mr. **EMERY**. Is that one of the darker samples?

Mr. **NELSON**. This is No. 7; this is the yellow [indicating sample]. This other one is No. 1.

Mr. **EMERY**. The court held that if the article had a yellow color in the semblance of butter, it was a prima facie case of violation of the law. There is a prima facie case of violation of the law in that No. 7. The court held that yellow butter is self-definable; there is

no definition to be given to it; that it is common knowledge, and that that fact is to be established by the experience of common people—not of experts, but the testimony of common people—plus the exhibition of the article itself; that is, the testimony of people who have seen it, or the exhibition of the article itself.

Mr. NELSON. So that as a matter of fact there is no difficulty for the oleomargarine manufacturer to sell white oleomargarine in Wisconsin, and he is doing it?

Mr. EMERY. Certainly. At the conclusion of our lawsuit I said to the representatives of the oleomargarine manufacturers, "You are standing in your own light. If you will put a lawful article on the market, you will have no difficulty in selling it, and your business will increase." I want to say, too, that there was a difference of opinion as to the interpretation of that law. We did not get the interpretation exactly that we stood for, and they did not get the interpretation at all that they stood for. I said, "If you will put oleomargarine in a lawful category on the market, and not force us to keep prosecuting all the time and keep this subject before the public, of violation of the law, you will increase your sales immensely," and I submit that the history of the two years has more than justified my statement.

The CHAIRMAN. Can you quote the language of the Wisconsin law?

Mr. EMERY. It is, "Which shall be in imitation of yellow butter."

The CHAIRMAN. Do you think there would be any greater difficulty in enforcing it, or that the construction of the act would be any different, if it used the language which appears here, "any shade of yellow?"

Mr. EMERY. Yes, sir; I do. I can not tell you otherwise, because the Supreme Court overruled the decision of the judge, when the judge held that that law included every shade of yellow, from one to the other, and the court held that if that construction should be put upon it, it was a practical accusation of—what shall I say?

Mr. FLANDERS. It was a prohibition?

Mr. EMERY. It did not amount to prohibition, but the action of the legislature, under a provision of regulation, would amount to prohibition.

The CHAIRMAN. In your judgment, is any other of these samples except No. 7 any shade of yellow?

Mr. EMERY. They are not before me. I judge them with reference to the law of Wisconsin, and I would not say that any of them is in imitation or semblance of yellow butter, except that I will say that the decision of the supreme court of Wisconsin went further and said that the legislature had undoubtedly given a liberty to the manufacturers and consumers of butter, an opportunity of protection in the use of the artificial coloring, that was denied in the oleomargarine.

The CHAIRMAN. I can see a good deal of difference that might be made in the interpretation of the two acts, it seems to me, one using the phrase "In semblance of yellow butter," and the other simply using the phrase "Any shade of yellow."

Mr. EMERY. Yes.

The CHAIRMAN. And that is the reason I asked you the question I did.

Mr. EMERY. Yes.

The CHAIRMAN. The gentlemen representing the oleomargarine industry have stated before the committee that if this language remained in the bill it would not be permitted for them to manufacture oleomargarine corresponding to any of the samples you present here. They say they are all some shade of yellow, and I wondered if your experience could throw any light on that subject.

Mr. EMERY. I think, gentlemen, that almost anything you get into the law can become the subject of legal controversy; at least that is my experience of seven and one-half years in administering the various food laws of Wisconsin. In the first place, there is a possibility of a difference of meaning and understanding on the words "any shade of yellow." It may be held by scientific men that "shade" means a color darker than the standard yellow, and that for colors lighter than the yellow the word "tint" is required. I can see the possibility of that.

Mr. NELSON. What would be your recommendation of the language to be used in this clause to make it, as I understand, so that the courts could easily distinguish which was colored and which was natural oleomargarine?

Mr. EMERY. I do not know what to recommend for this law, I am sure. You gentlemen can understand what results we have accomplished in Wisconsin by the language of our law. I should, myself, interpret "any shade of yellow," as Mr. Jelke explained it the other day, as in a common and popular sense rather than in a strictly scientific and accurate sense.

The CHAIRMAN. Has the law of Wisconsin ever been interpreted by the United States Supreme Court?

Mr. EMERY. No, sir. The Wisconsin law was an exact copy—I think an exact copy; in that particular at least, it was an exact copy—of the Massachusetts law that had been passed upon by the United States Supreme Court, and in that decision the United States Supreme Court held that oleomargarine in its natural state—that is the language of the court—is a light straw color, and I will say to you gentlemen that that was the standard that I have had in my mind for seven and a half years in the administration of the oleomargarine law of Wisconsin.

The CHAIRMAN. So that the language of the Wisconsin law has been interpreted by the Supreme Court of United States?

Mr. EMERY. To that extent, that it was the Plumley case that went up in Massachusetts, and our law was a copy of the Massachusetts law.

The CHAIRMAN. You have stated, I believe, that while the law is enforced in Wisconsin, oleomargarine is very generally sold?

Mr. EMERY. Yes, sir; my men, who are familiar with the people, were requested to go into the field and get representative samples. I could not go to 1,651 dealers, but I had my men to go into the various towns in the State and gather samples from a portion of the dealers, trying to get some of the larger as well as some of the smaller, so as to make it representative of the State, and get the number of pounds that they were selling a week, and then I computed it with my assistants, and I think that they made the computation accurately, and we found that there were 157,000 pounds of oleomargarine being sold weekly in the State of Wisconsin, and I do not believe that was an overestimate.

The CHAIRMAN. Do the butter people of Wisconsin regard oleomargarine sold thus, under the law, as a very dangerous competitor to their product?

Mr. EMERY. No, sir.

The CHAIRMAN. Do they think it has operated to reduce the price of their product materially?

Mr. EMERY. I have never heard that. I have heard dairymen to hold that it is a legitimate business.

The CHAIRMAN. There is no feeling of resentment amongst them as against oleomargarine?

Mr. EMERY. No, sir; not that I know of. If there is any such sentiment, I do not know it. I have not come in contact with it.

Mr. HAUGEN. Your present law is the one enacted in 1895?

Mr. EMERY. Yes, sir.

Mr. HAUGEN. And that prohibits the sale of oleomargarine made in imitation of yellow butter?

Mr. EMERY. Yes.

Mr. HAUGEN. I understood you to say that that law had been entirely enforced?

Mr. EMERY. Had been?

Mr. HAUGEN. Yes; fairly well enforced?

Mr. EMERY. I said that the law enacted in 1875——

Mr. HAUGEN. No; I am speaking now about the law of 1895, the present law.

Mr. EMERY. The present law, enacted in 1895, was enforced by Commissioner Adams up to the time, in May, when, as I have understood from his reports and understood from him, he resigned to become a candidate for Congress.

Mr. HAUGEN. He was commissioner in 1899, was he?

Mr. EMERY. He was commissioner in 1899; yes, sir.

Mr. HAUGEN. Secretary Gage's report shows that 23 dealers sold 714,742 pounds, and all of that was sold in violation of the law.

Mr. EMERY. Whose report is that?

Mr. HAUGEN. Now, the last part of December, 1901, I bought 4 pounds of butter at Racine, and I sent it over to Doctor Wiley and had it analyzed, and three of the four were oleomargarine, and the report shows that the fourth was butter and had a light coloring. The other three had a heavy coloring of coal-tar dye. That would indicate that the law had not been enforced and that the state laws were inadequate.

Mr. EMERY. I have given you the best information I had and such as I got from Mr. Adams.

Mr. HAUGEN. Do you contend that the state laws can be made adequate?

Mr. EMERY. No, sir.

Mr. HAUGEN. To prevent fraud?

Mr. EMERY. No, sir. I think that Congress should enact laws that should keep fraudulent substances from going into the States, and one of the most difficult things that the state dairy and food commissioners have to contend with in the administration of all dairy laws is that when an article comes into the State that is adulterated under the laws of the State, they come into court and endeavor to overawe us with the statement that this meets the requirements of the national law, and therefore the State ought to be content.

Mr. HAUGEN. Then your contention is that it is absolutely necessary to put it under the federal control?

Mr. EMERY. So far at interstate commerce is concerned; yes.

Mr. HAUGEN. And the state laws are inadequate? That is the only point I want to get.

Mr. EMERY. The state laws are inadequate to meet all defects. This law I have spoken of is supplementary to the national law.

Mr. LEVER. Are you having any trouble in enforcing the state law because of the defective national law?

Mr. EMERY. Since the decision of the supreme court of the State of Wisconsin I have had practically no difficulty in enforcing the oleomargarine law of Wisconsin. There is not a state food law in the United States better enforced and complied with than the oleomargarine law of Wisconsin.

Mr. LEVER. So that a state law can be entirely adequate?

Mr. EMERY. Yes; a state law that supplements a national law. We have a government of peculiar form, and in a certain sense the Constitution of the United States is supplemented by the constitution of each State, so that if there was freedom for oleomargarine to come into any State from outside the State, to come in there without this restriction, I think it would be much more difficult; and I wish to speak for myself and say that any law of Congress that should repeal the clause that makes oleomargarine, when received into the State, amenable to the laws of the State the same as though it was manufactured in the State, would be objectionable.

The CHAIRMAN. But you would not wish now to change the statement you made a moment ago, that so far as Wisconsin is concerned you do not feel the need of any additional legislation on the federal side?

Mr. EMERY. We have gotten along very well, I think.

The CHAIRMAN. Just one more question. Is it your opinion that the differential in the tax on uncolored and colored oleomargarine is a defective feature of the present law?

Mr. EMERY. I understand that the power of Congress over this matter comes through one of two sources in the Constitution, either the taxing clause or the interstate-commerce clause, and that this law is under the taxing clause, and I think that this provision of a 10-cent tax, or something of that kind, under the existing form of law, checks the putting into the States of oleomargarine of that kind.

The CHAIRMAN. Would you have any objection to having a uniform tax of 10 cents on oleomargarine, from the standpoint of enforcement of the law, leaving out any question of policy?

Mr. EMERY. I hardly think that the law should be enacted with exclusive reference to the ease of its enforcement. I believe in a classification by which oleomargarine that does not have the unearned increment of yellow butter does not bear a high tax. I think that that which tries to get this unearned increment may be legitimately taxed, and that Congress is justified in using the taxing power on that article.

The CHAIRMAN. Let me put the question the other way. What I am trying to find out is your opinion as to whether there would be any disadvantage, from the standpoint of the enforcement of the law within your State, if the tax on the two products should be uniform, leaving out of account the question of amount.

Mr. EMERY. I am inclined to think there might be, but I do not know about that. Now, experience is our teacher, and I have had no experience of that kind, and I do not know. The fact was that while that law was in existence there was a good deal of trouble in enforcing the law in Wisconsin.

The CHAIRMAN. Was it due in any degree, in your judgment, to the fact that there was no difference in the tax?

Mr. EMERY. The Supreme Court of the United States made a discrimination in saying that it was only a certain kind of oleomargarine whose sale was prohibited; it was not oleomargarine, but it was oleomargarine in imitation of yellow butter; and I think that discrimination should be made. I think that is the essential characteristic in the Wisconsin law, and that some means should be adopted that will make that discrimination.

The CHAIRMAN. You think that is the crux of the matter?

Mr. EMERY. I do; yes, sir.

The CHAIRMAN. The important part?

Mr. EMERY. From all the experience that I have had that is, in my judgment, the pith of the whole matter.

Mr. BURLESON. Do you ascertain whether oleomargarine has or has not paid the 10-cent tax; in the investigation you have made throughout your State have you ascertained that or have you in determining whether the law has been violated or not?

Mr. EMERY. There has been no yellow oleomargarine in there for the past two years.

Mr. BURLESON. Then, you do not depend upon the tax to aid you in the enforcement of that law in Wisconsin, because you say you do not ascertain whether it has paid the 10-cent tax or not?

Mr. EMERY. If I understand the question, I have nothing to do with that law.

Mr. BURLESON. Do you never make an inquiry as to whether it has or has not paid the 10-cent tax?

Mr. EMERY. Certainly; I have nothing to do with that law.

Mr. BURLESON. Then, how can that aid you in the enforcement of the law?

Mr. EMERY. It would aid in this respect, I think, in the character of the product that came into the State through interstate commerce.

The CHAIRMAN. Are there any further questions?

Mr. BEALL. I want to ask you a question or two, Professor. I understand that the present oleomargarine law provides that when an interstate shipment comes into Wisconsin, it then becomes subject to the laws of Wisconsin?

Mr. EMERY. The same as though it had been manufactured there.

Mr. BEALL. The same as though it had been manufactured there?

Mr. EMERY. Yes.

Mr. BEALL. Now, can you name any other section of the oleomargarine law, of the national law, that has any influence whatever in the enforcement of the state law of Wisconsin?

Mr. EMERY. Do you mean, now, directly or indirectly?

Mr. BEALL. Directly or indirectly.

Mr. EMERY. I do not know that I can point out that specifically. I have an impression that a national law which tends to keep out of a State an adulterated or fraudulent article of food aids the state officer in the enforcement of the state law on that subject.

Mr. BEALL. Let me remind you of this, that there is nothing in the national law which would prevent there being sent into Wisconsin either uncolored oleomargarine or oleomargarine that is colored either by artificial means or by natural means, but it does provide that when it gets into your State, then it shall become subject to the jurisdiction of the State.

Mr. EMERY. That is correct.

Mr. BEALL. So that outside of that clause of the present law, you can not direct our attention to anything in the national statute that is of any effect in enforcing the law of your State?

Mr. EMERY. I do not know that I can point that out now, but I have been under the general impression that a national law along similar lines has a certain tendency to aid in the enforcement of the state law.

Mr. BURLESON. Well, how? How?

Mr. EMERY. If these articles are kept out of the State by a national law.

Mr. BEALL. But, Professor, if you will let me interrupt you, there is no national law that keeps them out of the State. They can go to Wisconsin, but when they get there, then the jurisdiction of the laws of Wisconsin attaches, and they are the laws under which you are operating.

Mr. EMERY. Well, that is true.

Mr. BEALL. Your law, as I understand it, forbids the sale of oleomargarine colored in imitation of butter?

Mr. EMERY. No. Now, be careful of the exact language. Do not say "colored."

Mr. BEALL. I am attempting to be careful.

Mr. EMERY. We must be careful to get the exact language.

Mr. BEALL. Well, give me the exact language.

Mr. EMERY. "Which shall be in imitation of yellow butter."

Mr. BEALL. "Which shall be in imitation of yellow butter." Now, suppose a law was passed in the language of the McHenry bill, which I understand provides a prohibition against any shade of yellow; might there not be quite a different interpretation of that language from the language of the Wisconsin law?

Mr. EMERY. I think there would be likely to be.

Mr. BEALL. Now, I understood you to say a moment ago that the supreme court of your State in interpreting this law did not adopt the interpretation that oleomargarine people wanted placed upon that language, nor did it adopt the interpretation that you, as the food and dairy commissioner of the State, wanted?

Mr. EMERY. Not fully; in the one particular we held that under the language of our statute "in imitation of yellow butter" meant of the color of yellow butter, or in the sense of the semblance of yellow butter.

Mr. BEALL. Your interpretation, then, that you wanted placed upon that law was about the same as you think would be placed upon the language used in the McHenry bill?

Mr. EMERY. No, sir; it does not involve the same question. It turned upon the standard definition of "imitation;" that is, "imitation" within the meaning of the law implied a conscious act. We contended that it made no difference whether it was conscious or unconscious, if it was in the semblance of yellow butter. Then they

held that the burden of proof was upon us to show that there was a conscious imitation, and the court sustained that theory, but they went on to say further that the conscious imitation was shown as much by the selection of material as it was by the artificial color.

Mr. BEALL. Now, if the court had adopted the interpretation you wanted placed upon the law, do you think any of these samples you have shown here to-day would have been permissible to be sold?

Mr. EMERY. It would make no difference whatever, in my judgment, about the enforcement of that law.

Mr. BEALL. It would not have been any different?

Mr. EMERY. No, sir.

Mr. BEALL. Then why were you insisting upon that interpretation?

Mr. EMERY. It was upon the kind and amount of evidence to convict. When we have to go into court and prove that in the manufacture of that article there was a conscious selection of the material available, the burden of proof is very much greater than if we had to go into court and show that it is in semblance of yellow butter and in violation of law. There is a very great difference in the proof.

Mr. BURLESON. You spoke of certain experiments made by Professor Russell, your bacteriologist, and certain conclusions he reached therefrom.

Mr. EMERY. I do not know that I made that statement.

The CHAIRMAN. You wrote him a letter and he replied to you.

Mr. EMERY. I said that Doctor Russell is a bacteriologist, but I did not refer to any particular experiments.

Mr. BURLESON. But he made a certain statement in his letter, about the dangers of propagation of disease through butter.

Mr. EMERY. Yes; he said he thought there was some danger of it,

Mr. BURLESON. Do you know the extent to which he has carried on experimentation?

Mr. EMERY. Well, I know that Doctor Russell, as I understand it is regarded—

Mr. BURLESON. I am not asking about his eminence as a bacteriologist.

Mr. EMERY. He has been bacteriologist of Wisconsin, and in the agricultural college, and has specialized in bacteriology, and up to the time he was dean he was devoting his time to that work. He has been conducting experiments and has been a leader in the movement to eradicate tuberculosis in the dairy herds of Wisconsin, a man of very conservative judgment, and I wish to say that wherever he is known his judgment is valued and respected.

Mr. BURLESON. I am not questioning his ability, but I am asking if you know the extent to which he has experimented.

Mr. EMERY. I know that he has been a large investigator. That is the extent of my knowledge on the subject.

Mr. BURLESON. One other question. You spoke of the opinion of Professor Babcock, or read a letter from him giving his opinion, as to the constituent elements of oleomargarine and butter. Do you know Prof. Harry Snyder, of the University of Minnesota?

Mr. EMERY. No, sir; I do not.

Mr. BURLESON. I have in my hand the results of experiments made by Professor Snyder, and the results also of some experiments made by Prof. H. Wibbens and Prof. H. E. Huizenga on the points spoken of by Professor Babcock, and in connection with that, I will ask that these go into the record.

The CHAIRMAN. Without objection they will be included in the record.

(The matter referred to by Mr. Burleson is here printed in the record as follows):

Comparative digestibility of oleomargarine and butter, as part of an otherwise normal ration, with healthy men.

[From Human Food Investigations, Prof. Harry Snyder; Univ. of Minn. Agr. Exp. Bul. No. 74 (1902), pp. 109-174.]

	Average digestibility of the—			
	Protein.	Fat.	Carbohy- drates.	Available energy.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Oleomargarine.....	87.90	94.20	97.01	91.30
Butter.....	89.06	95.54	99.97	92.06

Proportion of energy actually available to the body—	Calories.
In butter.....	96.50
Oleomargarine.....	97.37

Coefficients of digestibility of rations containing butter and oleomargarine.

[From experiments by H. Wibbens and H. E. Huisenga; Arch. Physiol. (Pflüger) 83 (1901), No. 10-12, pp. 609-618.]

	Dry matter.	Protein.	Fat.
Experiment A:			
Butter.....	94.31	84.09	96.05
Oleomargarine.....	94.22	85.12	96.06
Experiment B:			
Butter.....	96.17	89.71	97.33
Oleomargarine.....	94.94	88.65	95.96

Mr. LEVER. Professor Emery, have you ever considered the original-package idea as a means of preventing the fraudulent sale and use of oleomargarine?

Mr. EMERY. To some extent.

Mr. LEVER. This is the idea, for oleomargarine to be sold in packages of one-half pound to not more than 3 pounds, with the word "oleomargarine" indented in the product itself, and with a parchment paper wrapping it, with "oleomargarine" imprinted thereon, with another outer wrapper with a federal stamp upon that outer package, perhaps a band or ribbon of stamps around it, and with perhaps an emblem, so as to thoroughly identify this product as oleomargarine. Have you ever thought of such a scheme as a means of preventing fraud, the product to be sold in unbroken packages, of course?

Mr. EMERY. My attention has been called to that here in this room at this committee meeting.

Mr. LEVER. What do you think of the idea?

Mr. EMERY. Why, I think that is very good, so far as it goes. I do not have faith in it as a perfect means of preventing the fraud in the sale of oleomargarine.

Mr. LEVER. You think nothing but, you might say, the discoloration of oleomargarine would prevent the fraud?

Mr. EMERY. The experience of Wisconsin so far is that the most effective means of eliminating fraud in the sale of oleomargarine is the color line.

Mr. LEVER. You think, however, this original-package idea would be perhaps an improvement over the present situation?

Mr. EMERY. It might be.

The CHAIRMAN. Mr. Jelke wanted to ask you a question.

Mr. JELKE. If the good features of the Wisconsin law, and the very language of the Wisconsin law, should be enacted into a national law under the interstate-commerce powers of the Constitution, could not the tax be dispensed with?

Mr. EMERY. I should think it might; only—let me modify this now—change “imitation” to “semblance.” But, again—I want now to go on record right—I have some question as to the constitutional power of Congress to enact that law under the taxing power. If that power exists there is a means. If you cannot enact it under the taxing power you have got to put it under the interstate commerce clause of the Constitution, and you will have some different conditions there.

The CHAIRMAN. Are there any other questions? I think the committee will have to bring the hearing to a close now. We will adjourn until to-morrow morning.

(At 4.30 o'clock p. m. the committee adjourned until to-morrow, Saturday, May 14, 1910, at 10.30 o'clock a. m.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Saturday, May 14, 1910.

The committee met this day at 10.30 o'clock a. m., Hon. Charles F. Scott, chairman, presiding.

The CHAIRMAN. The committee will come to order. If you gentlemen have no objection to going ahead without a quorum, we will begin now, because I think a quorum will appear in a very few minutes. Mr. Flanders, will you present your next witness?

Mr. FLANDERS. Mr. Chairman, I introduce to you now Mr. Morley, of Minnesota, who will speak briefly as to the number of dairy farmers, and the amount of butter, and the amount of oleomargarine manufactured, and the cotton-seed oil as entering into oleomargarine.

The CHAIRMAN. Please state your full name to the reporter and state whom you represent, if any organization.

**STATEMENT OF MR. J. R. MORLEY, OF OWATONNA, MINN.,
REPRESENTING THE MINNESOTA COOPERATIVE DAIRIES
ASSOCIATION.**

Mr. MORLEY. My name is John R. Morley, Owatonna, Minn. Do you want my occupation?

The CHAIRMAN. Yes, sir.

Mr. MORLEY. I am a farmer, and I am representing here the Minnesota Cooperative Dairies Association.

Mr. Chairman and gentlemen of the committee, I want to present some figures for the purpose of putting them in the record. I agree with our chairman that it should not take long, probably not to

exceed five or ten minutes, to do what I want to do. I also want to correct some figures that were given here on the first day of this hearing in the opening remarks of Mr. Burleson, the gentleman from Texas. I dislike to give those figures if the gentleman from Texas is not present.

The CHAIRMAN. He is here.

Mr. MORLEY. I want to say, Mr. Chairman, that I am not an expert on color or the definition of colors; neither am I an expert on the administration of law. My experience in dairying has been more in the production of the raw product and the manufacture of the same and the putting of it on the market.

Now, the total amount of butter made in 1899—and I think we have no reliable figures, only figures by estimates since that time—is 1,491,871,673 pounds. That reported from farms was 1,071,745,127 pounds, and from factories there were reported 420,126,546 pounds. The average price received for butter at that time was 16.7 cents per pound on the farm and 20 cents for the factories.

Now, I will get at the increase of present production by percentages, based upon the increase in the number of dairy cows as reported by the Secretary of Agriculture, and the difference in price between now and ten years ago. The total value of butter made on the farms at that time was \$178,881,436.20; of that made in factories it was \$84,025,309.20. Figuring it at these prices, which are very conservative, this would make a total of \$262,960,745.40.

There are no statistics at hand which show the value of butter produced in 1909, but during the year 1899 there were, according to the census report, 17,139,674 cows, while according to the Yearbook for 1909 there were in that year 21,801,000 cows. It is very conservative to say that if the number of dairy cows has increased 27 per cent—that would be a 27 per cent increase—the butter product would have increased in value at least that amount in per cent, and this would make the value of the butter produced in 1909, at the prices prevailing in 1899, \$333,891,566.65. But the price for 1909 was 42 per cent higher than the price in 1899, which would make the value of the product for 1909, \$474,175,024.64, using those percentages to get the difference.

The annual report of the Secretary of Agriculture estimates that the total value of all dairy products for the year 1909 will reach approximately \$800,000,000. This, of course, would include the value of cheese, milk, and cream sold for city consumption, as well as butter; and he further states in that remark that that exceeds the value of any one product in the United States, not excepting King Cotton.

Now, at this point I want to correct the figures given by the gentleman from Texas in his opening remarks on April 20. The gentleman evidently omitted some of the figures from the table in the census report from which he apparently got his figures. I quote from that, page 4 of the proceedings of April 20:

On June 1, 1900, there were 5,739,657 farmers in this country. Of that number those who were engaged in the dairy produce business were 359,578, or 6.2 per cent of the whole number.

That is of farmers. Now, turning to the Twelfth Census Report, volume 5, part 1, page 169, table 159, which I think is the table that this information was gotten from, we find that there are 5,739,657

farmers, as he reports. Of farmers reporting dairy cows there were 4,514,210; dairy farmers, 357,578. The per cent of all the farmers reporting dairy cows was 78.6, and not 6.2 per cent, which would include these 17,139,674 cows.

Now, the question would naturally arise to this committee, in view of these figures, what is the distinction between a farm and a dairy farm? And I want to say, Mr. Chairman, that that distinction is simply the opinion of the owner. During the recess of this hearing I was home and I made the report of my farm to the census enumerator. He said to me, "Is this a dairy farm?" I said, "No." At the same time I reported having on that farm 33 milch cows, or, as they are actually styled, dairy cows. The reason I did not report that as a dairy farm was because it was not exclusively a dairy farm.

Now, the inference might be drawn from that that it was simply a man's opinion whether it was a dairy farm or not. Now, the construction I would put on a dairy farm would be a farm that was used exclusively for the production of dairy products, where the only source of income would be the products of the dairy cows.

Then, on the next page, page 5, taking the farms as the principal source of income, I quote this from the remarks of the gentleman from Texas:

And the farmers who are engaged in those occupations number, those engaged in raising live stock, 1,564,714, or 27.3 per cent of the whole; those who are engaged in the production of cotton, 1,071,545, or 18.7 per cent of the whole; a total of 46 per cent, as against 6.2 per cent engaged in the dairy business.

Table 160, page 169, volume 5, part 1 of the Twelfth Census report shows that the farms where the principal source of income was live stock was the same as reported, 1,564,714, but of these farms 1,409,343 reported dairy cows, and the number of dairy cows was 5,852,815, or an average of 4.2 cows per farm. Where the principal source of income is cotton the number of farms is 1,071,545 reporting dairy cows. Out of that number 604,614, or 14 per cent of all the dairy farms, where the principal source of income is cotton, reported dairy cows to the number of 1,315,491, or two cows per farm.

My reason for bringing these figures out, Mr. Chairman, is because, although I do not want to take any exceptions to the gentleman's remarks, I wanted these figures to go into the report as they actually existed ten years back, showing the distribution and magnitude of the dairy industry.

Now, taking the Yearbook for 1906, I want to show the increase of dairy cattle over the increase of meat cattle, or cattle, I suppose, kept and raised for beef purposes. The Yearbook for 1909 shows the number of meat cattle in the United States to be 69,080,000. That, as I understand the reading of the term in that book, means all the cattle. This is an increase of 2 per cent over ten years before, while the increase of dairy cattle alone is 27 per cent, consequently showing a marked decrease in other cattle than dairy cows and a large increase in the dairy cows.

Now, I can illustrate the growth of the dairy industry in one of the newer States by taking my own State, Minnesota. Ten years ago, or prior to the passage of this law which is now in dispute, Minnesota made from her creameries 63,000,000 pounds of butter, which sold for \$12,000,000, for which the farmers received \$12,000,000. The product for 1909 reaches approximately 100,000,000 pounds, valued

at \$28,000,000. I want to say in this connection, Mr. Chairman, that this increase in the dairy industry in that State is the result of the changing in the newer parts of the State from exclusive grain raising to dairying, which they found to be a necessity in order to conserve the fertility of the soil. Ten years ago dairying in our State was confined to the southeastern portion, or the older portion of the State. Along the western border, along the Dakota line, and in the Red River Valley there was practically nothing. In fact the farmers scarcely kept cows enough to produce their own dairy products, and in the Red River Valley I have heard stories about cows being so infrequent that they used them for guide boards.

I heard an attorney for the Great Northern Railroad, who has done a great deal to develop dairying and stock raising in that northern country, and who was quite a farmer himself up there, say that he remembers the time in the early history of that country when he would be directed to a certain point where there was a man who had a cow. "You go in a certain direction and you will find a cow staked out, and then you go in another direction and you will find another cow." They have a common saying there that they used the cows for guideboards because they were so scarce. Now the dairying in the valley of the Red River of the North is a great industry. The same condition prevails in the Dakotas. In South Dakota ten years ago there was practically no dairying, and west of the Missouri River it was a range country. Now that section west of the Missouri River, as of course you know, has been opened to settlement, and there is dairying and creameries, and the dairying industry now extends to the foot of the Black Hills.

Now, in the same census report, page 159, table 148, we find the same report with the exception that there are farms reporting other cows to the number of 979,234. The inference must be drawn from that, although there is no explanation given, that these cows were kept for the express purpose of raising beef cattle, and the cows were not milked, as is the custom on the ranges and in some, I believe, of the southern corn-growing States. The cow is kept for the chance of the calf. That is, the calf is allowed to run with the cow, and milk is not used for commercial purposes, and on those farms there were 11,592,142 cows.

Now, according to the decrease of meat cattle and the increase of dairy cows, as above stated, it would plainly indicate that those conditions are fast disappearing where a farm kept a cow for the chance of a calf, and no doubt this mostly comes from the range country. These figures go to show the importance of the dairy industry to the agriculture of the North.

Now, here we have 4,514,210 farmers who are keeping dairy cows, or keeping cows in a greater or less number for milk purposes; and I want to say that they are all interested in this proposition which is now before your committee. I might say they are intensely interested in it, because they feel that it is of vital importance that their industry should be protected from imposition or from substitutes which would eventually drive them out of business.

As I said before, I am not an expert on color or matters of color, but I brought here for the inspection of the committee some butter which is made without coloring matter [submitting specimens]. That butter was churned one week ago to-day. The milk was

taken from the farms one week ago, which would be the 6th of May, and the cattle were not on full grass. Reference has been made here to the fact that there are breeds of cattle that will produce butter nearly as yellow as this at any time in the year.

Mr. STANLEY. What will that butter sell for now?

Mr. MORLEY. That butter will sell at the very highest market price as compared with other creamery butter. When you say what butter sells for, it is just about according to the deal that you can make with your men.

Mr. STANLEY. What will it bring in this market?

Mr. MORLEY. That butter has brought this creamery one-half cent above New York specials, f. o. b. New York, during the past winter.

Mr. STANLEY. I want to know the amount of money that it will bring. What you say is all Dutch to me. What you say does not tell me whether it brings 20 cents or 50 cents a pound. How much does it bring to the pound?

Mr. MORLEY. That would bring to-day 30 cents a pound in New York.

Mr. CHAPMAN. What is the brand of that?

Mr. MORLEY. "Creamery special."

Mr. CHAPMAN. It is quoted in New York April 21 at 32 cents. This is from The Producer's Price Current.

Mr. MORLEY. That butter brought 32½ cents f. o. b. New York. That is the jobber's price.

Mr. STANLEY. What will that butter cost the consumer?

Mr. MORLEY. That is a question with the retailers. I never followed it further than that.

Mr. LAMB. Thirty-five or 40 cents, probably.

The CHAIRMAN. That butter was made at the creamery?

Mr. MORLEY. Yes, sir; that butter was made at the creamery.

The CHAIRMAN. About what was the equivalent price made to the dairyman?

Mr. MORLEY. The dairyman is paid on the basis of butter fat, and not of butter.

The CHAIRMAN. I understand that, and that is the reason why I asked what would be the equivalent price.

Mr. MORLEY. On the present market if that butter brought 30½ cents in New York, I should say it would bring the dairyman about one cent and a half less.

The CHAIRMAN. That is, the dairyman who sold the cream out of which that butter was made realized for the cream what would have been equivalent to him of about 29 cents a pound for the butter?

Mr. MORLEY. This is a farmers' creamery. Now, you have gotten me a little on those figures, because while I am secretary of that creamery and pay those farmers, I would have to figure that out.

The CHAIRMAN. What I was trying to get at, of course, was what butter was worth per pound on the farm, to the farm, when it is worth 30 cents a pound in New York?

Mr. MORLEY. It costs about a cent and a half freight and a cent and a half to make it; about 3 cents for the actual butter; about 3 cents below what it sells for. Now, when it sells in New York, without the commission, the farmer would get about 3 cents below that.

Mr. HAUGEN. That is what you get in cooperative creameries?

Mr. MORLEY. Yes.

Mr. HAUGEN. In the others you take what you can get?

Mr. MORLEY. Yes. In cooperative creameries, you understand, there is no profit to the stock.

The CHAIRMAN. Can you give us an idea of what the farmer in Minnesota would get for his butter if he made it on the farm and sold it in the local towns when it is worth 30 cents by wholesale in New York?

Mr. MORLEY. That style of business has gone out in our country. I do not know anything of it, practically.

The CHAIRMAN. And the operations of your creamery would not afford any basis on which you could give an estimate?

Mr. MORLEY. Oh, no.

The CHAIRMAN. So that, even knowing the price paid the farmers for the cream and knowing the price received by the creamery for the butter, you can not give an estimate of what the farmer is getting for his butter?

Mr. MORLEY. Surely, of this butter. I thought you asked me for dairy butter.

The CHAIRMAN. I asked you for the price the farmer would get for that butter if he made it and served it himself.

Mr. MORLEY. If butter is quoted, specials, at 30 cents in New York to-day, that butter would sell for 30½ cents f. o. b. and the farmer would get 27½ cents. I misunderstood you, Mr. Chairman. I thought you meant butter made on the farm.

The CHAIRMAN. Of course it is not pertinent to this inquiry, but it is a matter of interest because of "the cost of high living," and I am surprised to hear you say that the product can be handled on so narrow a margin. I had been supposing that if butter was worth 30 cents wholesale in New York, the farmer would be doing very well, indeed, if he got from 22 to 25 cents for it in Minnesota.

Mr. MORLEY. Well, a good, well-managed factory should manufacture butter throughout the year at a cost of from a cent and a half to a cent and three-quarters per pound. That, understand, is without any profit to anybody, or any profit to the capital invested in the creamery. The way our creameries are managed they do not look for any profit invested in the creamery, but they want it all to come on the produce of the cows.

Mr. CHAPMAN. In your cooperative creamery the farmer retains the milk?

Mr. MORLEY. He retains the skimmed milk.

Mr. STANLEY. Do you separate the milk on the farm?

Mr. MORLEY. It is optional, and most of our milk is separated in the factories, and that makes the finest quality of butter.

The CHAIRMAN. Proceed, Mr. Morley, with your statement.

Mr. MORLEY. That is all I have on those figures, Mr. Chairman, but I have some resolutions here which I would like to submit to you, which were passed by different associations in our State.

Mr. BURLISON. Mr. Chairman, if resolutions are to go in we have three or four hundred resolutions from labor organizations and tubercular associations and farmers' associations and live-stock associations that we want to embody in the record, too.

The CHAIRMAN. Unless the committee think differently, I suggest that resolutions and petitions, of which we have basketfuls here, be filed separately, and not be made a part of the record.

Mr. MORLEY. What brought this to my mind was that I thought yesterday some of these resolutions were put into the record.

The CHAIRMAN. The statement was made that these resolutions had been adopted, but they were not incorporated in the record.

Mr. MORLEY. I want to say in that connection, then, I will only speak of that one association, if that is your judgment in the matter. This association recommended the retention on the statute books of the Grout bill, the Grout law as it now stands, and the enactment of the Penrose bill, which I understand is the same as the McHenry bill, which was talked about here yesterday, to correct the defects in the Grout law.

The CHAIRMAN. The resolutions will be placed on file with the committee.

Mr. MORLEY. Now, Mr. Chairman, I have a paper here, giving statistics in relation to the cotton-seed oil and the oleomargarine or the cotton-seed industry, which I have had prepared.

Mr. BURLESON. Who prepared it?

Mr. MORLEY. It was prepared by the secretary of the National Dairy Union.

Mr. BURLESON. Will it show the sources of the figures?

Mr. MORLEY. Yes, sir.

Mr. HAUGEN. You ask that that be incorporated in the record?

Mr. MORLEY. Yes, sir.

The CHAIRMAN. Without objection, that will be done. Have you anything further to submit?

The statistics quoted in the following paper read by Mr. J. R. Morley were compiled from Bulletin No. 117, South Carolina Experiment Station, from reports issued by the Bureau of Commerce and Labor, from reports published by Secretary of Agriculture, and from the Census Bureau. From these various reports general deductions were made, as follows:

Inasmuch as the claim has been made before this committee that the interests of the southern farmer are prejudiced by the present oleomargarine law, it is my purpose to briefly direct the attention of the committee to the real facts regarding this feature of the controversy. \$499,458.42 worth of cotton-seed oil was used in the manufacture of oleomargarine in 1908, and the cotton growers of the South received 14 cents per acre from its sale. Only 3.1 per cent of the total output of cotton-seed oil was used in the manufacture of oleomargarine in that year. This fact alone is abundant proof of the little concern which the cotton farmer should entertain regarding this question, especially when he understands that for every dollar's worth of cotton-seed oil used in the manufacture of oleomargarine \$107 worth of dairy products were produced in the eleven principal cotton-growing States.

To attempt, therefore, to array the southern farmer against his northern neighbor is absolutely absurd and is, to say the least, a forcible indication of a serious dearth of real arguments.

Assuming, for the purpose of arriving at the real facts, that legislation were enacted that would eliminate the oleomargarine industry—a result for which no one is striving—let us compare the benefits to the cotton farmers that would result from dairying should they give their attention to that industry as they should.

In the first place, it should be remembered that it is a matter of history that dairying does not mean a decrease in the production of farm crops, hence I am not contending that the cotton grower shall grow less cotton in order to engage in dairying.

Cotton-seed meal is one of the best concentrated dairy feeds. Every pound of that product produced in the South should be fed to dairy cows right where it is produced, and consequently where it is cheapest. During 1907 about 56 per cent of all the cotton-seed meal produced in the South was shipped to foreign countries. The farmers there know its value and are willing to incur the comparatively enormous expense of importing it in order to use it for feeding purposes. Of course they make money by doing so or they would discontinue using it. The southern farmer has just as favorable opportunities for using this feed, and, of course, at a much lower price and at a resulting higher profit.

Since there is an enormous demand for commercial fertilizers throughout the Southern States and the lack of it is perhaps as great a hindrance to southern agricultural progress as any condition which confronts the southern farmer, it is important that the fertilizing value of cotton-seed meal be considered.

In Bulletin No. 117, issued by the South Carolina Experiment Station, it is shown that the manurial value of cotton-seed meal is \$26.34 per ton when applied direct to the land. According to experiments, it has been demonstrated that from 5 to 20 per cent of the fertilizing value of cotton-seed meal is removed from the product when fed to live stock. Deducting the maximum percentage, we find the fertilizing value of the manure from cows fed on cotton-seed meal to be \$21.07 per ton, and this actual value is obtained when the manure is properly handled.

The actual available nutriment in the cotton-seed meal for milk production is worth, according to these same experiments, \$28 per ton. Adding its value as a feed to the value of the manure, we find the total value of a ton of cotton-seed meal to the southern dairy farmer to be \$49.07.

For the fertilizer season of 1906-7 the State of Georgia used 789,736.5 tons of commercial fertilizer, one-seventh of which, or 112,819 tons, was cotton-seed meal. If two-thirds of this amount of cotton seed meal, or 75,213 tons, were used as fertilizer direct, the farmers of Georgia lost on this 75,213 tons of meal by not using it as feed and fertilizer \$1,709,501.

SEED PRODUCED IN THE UNITED STATES IN 1907.

During the year 1907 approximately 4,952,402 tons of cotton seed were produced in the Southern States. Of this crop approximately 2,564,873 tons were manufactured. If we allow 1,000,000 tons of seed for planting, there remains still 1,387,529 tons that were not manufactured.

MEAL MANUFACTURED AND MEAL EXPORTED IN 1907.

From the seed manufactured in 1907 approximately 1,043,080 tons of meal were made, of which 591,717 tons, or 56 per cent, were exported.

LOSS TO UNITED STATES IN EXPORT MEAL IN 1907.

If the manufacturers of this meal realized \$30 per ton for the meal exported, there was a loss to the country of \$19.07 per ton, since, as we saw above, its real value if properly used at home is \$49.07, and this loss to the United States, \$19.07 per ton on 591,717 tons of meal, aggregates \$11,284,043.

LOSS IN MEAL USED AT HOME.

Of the 1907 crop approximately 451,363 tons of meal were used in the United States. Not all of this was used in the South; but it is all needed and could be used there, and we will consider its value according to southern conditions. If two-thirds of this 451,363 tons, or 300,908 tons were used as fertilizer direct, according to Georgia prices, for fertilizing ingredients, it is worth to the farmer using it \$26.34 per ton instead of \$49.07, which it would have been worth if he had secured its feeding value as well; a difference of \$22.73 per ton, which, for 300,908 tons, aggregates \$6,839,638.

Total losses on meal for 1907 crop.

On meal exported.....	\$11, 284, 043
By extravagant use at home.....	6, 839, 638
Total.....	18, 123, 681

Attention is called to these facts to demonstrate to every man who is open to conviction that it is unfair to the southern farmer to attempt to show that his interests are inimical to those of his northern neighbor. To even attempt to create in his mind antagonism to the dairy cow is blocking the way of agricultural development in the South, and the man or men in authority who undertake for the purpose of accomplishing temporary results to cause the southern farmer to lose sight of these facts must stand condemned of working against the interests of southern agriculture.

If the interests of the producers of cotton-seed oil and cotton-seed meal are to be considered in determining this question, then it should be understood by each and every member of this committee that agricultural progress in the South must come through dairying rather than through the production of oleomargarine.

It should also be remembered that the present law has resulted in the present demand for cotton-seed oil for use in manufacturing oleomargarine.

In their efforts to produce a yellow product without using artificial color the oleomargarine manufacturers have used more cotton-seed oil than they did previous to the passage of the Grout law and more than they will use in the future should they be allowed to artificially color their product and still avoid a high tax.

Looking at the question from any point of view, only one intelligent conclusion can be reached, and that is that the interests of the southern farmer can be in no wise prejudiced by oleomargarine legislation—of whatever kind.

Mr. MORLEY. That is all I have.

The CHAIRMAN. Are there any further questions?

Mr. HAUGEN. Just one question. In your cooperative agreement the farmer gets exactly what the butter brings, less the expense of manufacturing into butter and the transportation and expenses incidental thereto?

Mr. MORLEY. Yes, sir. As I stated before, there are no profits on the capital invested.

Mr. HAUGEN. Now, if the farmer sells to the other creameries the price is less? He takes what he can get, and the price is much less?

Mr. MORLEY. Yes, sir.

Mr. HAUGEN. Can you give the committee any estimate as to the price?

Mr. MORLEY. The usual way for the creamery is to buy the cream right out. When it is operated by individuals there is a difference. They pay from 1 to 2 cents below New York extra quotations for butter fat, and butter fat is about 80 per cent of the butter.

Mr. HAUGEN. The dairy commissioner of our State and agents representing him made statements in our part of the State last year that the centralized creameries in the southern part of the State had been the means of stamping out that industry in that part of the State, and the farmers in that part of the State were receiving 22 cents, while our people were getting 30.

Mr. MORLEY. That was in Iowa?

Mr. HAUGEN. Yes; in Iowa.

Mr. MORLEY. I am not posted as to Iowa.

Mr. HAUGEN. Are the centralized creameries operating in your State?

Mr. MORLEY. Yes, sir.

Mr. HAUGEN. How do the prices of the centralized creameries compare with the cooperative creameries?

Mr. MORLEY. The range of prices that the farmers get will vary in a State as much as 10 cents. Now, do not understand that that is the difference between the centralizer and the local creamery. That is the difference in price paid between the poorest centralizer and the best creamery. Now, there is a variation of 4 or 5 cents between farmers' creameries owing to the conditions.

Mr. BEALL. I want to ask you one or two questions. How many different kinds of creameries are there? You have spoken of the cooperative and of the centralized. Is there any other kind?

Mr. MORLEY. There is the individual creamery, what we call the individual creamery. That is the creamery owned by an individual in a town.

Mr. BEALL. He does his own separating?

Mr. MORLEY. No; usually it is separated on the farm.

Mr. BEALL. It is separated on the farm, and the cream is delivered to that individual creamery?

Mr. MORLEY. Yes, sir.

Mr. BEALL. How often is that cream delivered? Is it kept over any period of time after being separated?

Mr. MORLEY. It varies from four to six days.

Mr. BEALL. After the cream is separated on the farm it is kept on the farm a period ranging from four to six days and then delivered to the individual creamery?

Mr. MORLEY. Yes, sir.

Mr. BEALL. Now, how do the centralized creameries get their cream?

Mr. MORLEY. They usually have buyers in the town. They buy the cream on the basis of the butter fat.

Mr. BEALL. That is then sent to the central creamery and separated there?

Mr. MORLEY. No. It is separated on the farm.

Mr. BEALL. It is sent to the centralized creamery and there turned into butter?

Mr. MORLEY. Yes, sir.

Mr. BEALL. How long is that usually kept before it goes into butter?

Mr. MORLEY. Really, I could not say anything about that. I have not had any experience in that line.

Mr. BEALL. I understood you to say a while ago that these centralized creameries paid a certain amount below the value of the cream fat, or whatever it is you call it.

Mr. MORLEY. Oh, from 2 cents to 4 cents. I made the extreme range of prices 10 cents; but that, understand, is from the poorest conditions of the centralized creamery to the best creamery conditions.

Mr. BEALL. It is about 10 cents a pound below the value of the butter fat?

Mr. MORLEY. Yes.

Mr. BEALL. I understood you to say in a pound of butter there would be about 80 per cent of butter fat?

Mr. MORLEY. Yes.

Mr. BEALL. Say that the value of that butter when it leaves the centralized creamery is 30 cents. Eighty per cent of that would be 24 cents, would it not?

Mr. MORLEY. Yes.

Mr. BEALL. And the producer of the cream, then, would get about 4 cents less than that?

Mr. MORLEY. That would just be my judgment. I have taken no pains to find out those figures.

Mr. BEALL. I do not know anything about it. I am asking questions that to you might appear very simple, but—

Mr. MORLEY. If butter was 30 cents in New York, for butter fat they would get about 2 cents below the extra price; about 27 cents. They would get for the butter fat 27 cents.

Mr. BEALL. But in that pound of butter there is only 80 per cent of butter fat?

Mr. MORLEY. Yes, sir.

Mr. BEALL. Then they would get about 80 per cent of the 27 cents for the butter fat that would go into a pound of butter?

Mr. MORLEY. Yes, sir.

Mr. BEALL. Now, you gave a lot of statistics there about the number of dairy cows, and so forth. Do I understand those figures to include all the cows that are used for milk purposes on the farms throughout the country?

Mr. MORLEY. Yes, sir.

Mr. BEALL. Well, can you give any idea as to the percentage of these cows that are used in the production of butter for sale?

Mr. MORLEY. No; I could not.

Mr. BEALL. It would be a rather small per cent, don't you think?

Mr. MORLEY. No; I should not think so.

Mr. BEALL. The great majority of these cows are kept simply for the purpose of producing milk and butter for home consumption, and if there is any sold, it is only incidental? The main purpose of keeping them is for the production of milk and butter at home?

Mr. MORLEY. Not in our part of the country.

Mr. BEALL. Taking the country as a whole.

Mr. MORLEY. I would not be posted on that.

Mr. BEALL. Your special knowledge is limited to your particular section?

Mr. MORLEY. Yes, sir.

Mr. BEALL. And you could not give an idea as to the country generally?

Mr. MORLEY. No, sir.

Mr. BEALL. Now, talking about dairy butter, I do not know whether I understand exactly what that means.

Mr. MORLEY. Dairy butter is butter made on the farm.

Mr. BEALL. Made on the farm by the farmer for his own use?

Mr. MORLEY. For his own use or for selling.

Mr. BEALL. Is that called dairy butter?

Mr. MORLEY. Yes, sir.

Mr. BEALL. Then in the figures you have given for dairy butter is included all the butter that is made on the farm by the farmer for his own use as well as that which goes into the market for sale?

Mr. MORLEY. I took those figures from the census report.

Mr. BEALL. That would be your understanding of what they mean?

Mr. MORLEY. That would be my understanding; yes.

Mr. BEALL. Taking oleomargarine, is there any special conflict between oleomargarine and the butter that the farmer makes for his home consumption? There is no competition there, is there?

Mr. MORLEY. I should not think there would be.

Mr. BEALL. A farmer does not use oleomargarine?

Mr. MORLEY. Not that I know of.

Mr. BEALL. He makes the butter at home and consumes the product of his own cows?

Mr. MORLEY. Yes.

Mr. BEALL. Take the butter that the farmer sells; he goes and sells it usually to the merchants, does he not, or peddles it out in the little towns?

Mr. MORLEY. I do not know anything about the marketing of dairy butter at the present time, because there is none of that in our section of the country.

Mr. BEALL. Then there is no probability of there being any serious frauds perpetrated through the sale of oleomargarine so far as dairy butter is concerned?

Mr. MORLEY. I do not see why if they sell it.

Mr. BEALL. Well, you say there is none sold.

Mr. MORLEY. No; I did not say so.

Mr. BEALL. I beg your pardon. I understood your last answer was that you did not know anything about it, because it was not sold.

Mr. MORLEY. I do not know. In my own locality there is no dairy butter made.

Mr. BEALL. And therefore none sold?

Mr. MORLEY. No.

Mr. BEALL. And you do not know how it is elsewhere?

Mr. MORLEY. No, sir.

Mr. BEALL. From your knowledge of dairy subjects, do you think that any considerable amount of oleomargarine is ever palmed off on the unsuspecting people as dairy butter?

Mr. MORLEY. No; I should think not.

Mr. BEALL. Then there is no special competition between oleomargarine and dairy butter?

Mr. MORLEY. Why, as to competition, if the dairy butter is sold in the town there would certainly be competition.

Mr. BEALL. So far as you know, there is no fraud practiced in the sale of oleomargarine for dairy butter?

Mr. MORLEY. I do not know of any such thing.

Mr. BEALL. You do not know of any?

Mr. MORLEY. No, sir.

Mr. BEALL. Then the only public interest that could be affected by the manufacture and sale of colored or uncolored oleomargarine, that is, the fraudulent sale, would be the creamery butter, the butter made in these creameries.

Mr. MORLEY. Well, I would think the fraud would be the greatest there.

Mr. BEALL. The fraud would be the greatest there, and, so far as you know, as to the dairy butter made by the farmer himself, his trade would not be specially affected by the sale of oleomargarine?

Mr. MORLEY. Not so far as I know.

Mr. BEALL. Not so far as you know. Now, can you tell me what per cent of the total production of butter in the United States is creamery butter?

Mr. MORLEY. I gave these figures according to the census.

Mr. BEALL. You gave so many figures that I could not keep them in mind, because I do not profess any special familiarity with the subject.

Mr. MORLEY. I did not give the percentage.

Mr. BEALL. Is there a large percentage of the entire output of butter that is made in the creameries as compared now with the total amount that is made by the millions of farmers and others throughout the United States?

Mr. MORLEY. The larger per cent, according to these figures, is made by the farmers.

Mr. BEALL. Of course the smaller per cent is made by the creameries?

The CHAIRMAN. That would be a natural deduction.

Mr. MORLEY. That would naturally follow.

Mr. BEALL. Then it is the smaller per cent of the entire butter production that comes into any kind of competition with the oleomargarine? Is that your judgment?

Mr. MORLEY. That would be the natural conclusion if only the creameries came in competition with it.

Mr. BEALL. Now, are you willing for all the products of the creameries to be put under the regulations of the pure-food law, the same as oleomargarine and process butter?

Mr. MORLEY. In what way do you mean?

Mr. BEALL. Subject to inspection, subject to examination, subject to certification before it goes into interstate commerce?

Mr. MORLEY. I am willing that anything should be done to creamery butter or dairy butter that would protect the public health and certify to its purity and its sanitary condition.

Mr. BEALL. In view of the disclosures that have recently been made, don't you think that it would be reasonably necessary to have some sort of inspection?

Mr. MORLEY. I would not want to pass judgment on that.

Mr. BEALL. Don't you think it would be to the interest of the man who is producing creamery butter under proper and sanitary conditions to have that inspection?

Mr. MORLEY. No, sir. I do not think the creameries have suffered from lack of government inspection.

Mr. BEALL. You are not willing, then, for the Government to take over the supervision of creamery products?

Mr. MORLEY. I said I would be willing to have the Government do anything they saw fit in regard to putting a pure and cleanly article on the market. It is up to Congress to do what it sees fit about that. We have no objection to it.

Mr. BEALL. If thought to be necessary, you have no objection to it?

Mr. MORLEY. No, sir.

Mr. BEALL. Do you know whether the creamery interests generally would be willing to do that?

Mr. MORLEY. That question has never been discussed.

Mr. BEALL. Taking these creamery bills, is it your idea that the only way to prevent fraud in oleomargarine is to establish a color line and prevent the coloring of it?

Mr. MORLEY. Yes; that is my opinion.

Mr. BEALL. Suppose a bill was before this committee that prohibited the coloring of oleomargarine in any color of yellow resembling butter and eliminating the tax feature. Would you be willing to support that?

Mr. MORLEY. Well, Mr. Congressman, I would not like to answer that. I am here supporting the McHenry bill, or the Penrose bill, with the 10-cent tax, and I would not want to make any qualifications upon that proposition.

Mr. BEALL. You are committed to the McHenry bill pure and simple and do not want to deviate from it in any respect?

Mr. MORLEY. So far as the color line and the 10-cent tax are concerned, no.

Mr. BEALL. You want that tax and the color line?

Mr. MORLEY. Yes, sir.

Mr. BEALL. Well, now, if Congress could enact a law absolutely preventing these people from coloring their product in imitation of butter, that would remove the fraud, don't you think?

Mr. MORLEY. That would be an experiment.

Mr. BEALL. That is the main addition to the present law that you want, and you commit yourself to it?

Mr. MORLEY. Congress enacted the Grout law for that purpose, and you people say that is a failure. Now, it is not necessary, simply because the Grout law has not proved fully effective, to repeal it. In my opinion it is better to amend something that we already have and strengthen it rather than try another experiment.

Mr. BEALL. You admit that it needs strengthening?

Mr. MORLEY. Yes, sir; and the Commissioner of Internal Revenue told how that could be strengthened, and according to his opinion here the McHenry or Penrose bill would practically do that. Now, what is the use of our going any further? We came down here to support that proposition. We can not come down here and start a new proposition. We have no authority to do that. I represent an association, and this is good enough for us.

Mr. BEALL. This committee seeks information, and in order to gain information it would like to have the expression of opinions of people familiar with the subject, and for that reason I asked you if you did not think the prohibition of any coloring matter, natural or artificial, in oleomargarine would serve your purpose without the tax?

Mr. MORLEY. I consider it would be an experiment.

Mr. BEALL. Well, any law that is passed is at first an experiment.

Mr. MORLEY. Yes; any new law that is passed is an experiment.

Mr. BEALL. Would you be willing to try the experiment?

Mr. MORLEY. No, sir. I should rather stick to the law that we have, with the amendment proposed.

Mr. BEALL. Now, you mentioned the statement of the Commissioner of Internal Revenue. Did you understand the Commissioner of Internal Revenue to advocate the establishment of this color line?

Mr. MORLEY. That is the way I would take it. He told how he could improve the administration of the law by amending the bill.

Mr. BEALL. He said if this amendment was put into it it would have the effect of reducing the frauds. Was not that the question when he said "yes?"

Mr. MORLEY. That is as I understand it.

Mr. BEALL. The question was also asked him, if this differential was removed, if that would not go a long way toward reducing the frauds? Do you know what his answer was to that?

Mr. MORLEY. No.

Mr. PLUMLEY. Mr. Beall, that had reference simply to the administrative features and the matter of fraud on the Government; not the fraud on the farmer.

Mr. BEALL. It was the administrative feature that the internal-revenue collector was talking about all the time, as I understood him, because he had attempted repeatedly, according to my recollection, to emphasize that fact that that was the only feature he had to do with.

Mr. PLUMLEY. He occupied one position on this, and this gentleman occupies another. This gentleman occupies a position of opposition to fraud against the farmers, and the commissioner did not.

Mr. BEALL. Do you understand that he committed himself to that proposed feature of the bill any more than he did to the other hypothetical questions that were put to him?

Mr. MORLEY. He committed himself to that proposition of the Grout law, that it should be amended so that he could from his department enforce it. Now, that is all we want. If we can retain the Grout law and amend it so that it can be enforced, that is protection enough, and that does not hurt the oleomargarine manufacturers nor the consumer of oleomargarine if he takes it in its natural color.

Mr. BEALL. You take the oleomargarine that is made without any artificial coloring. That is not made in violation of any law now, is it?

Mr. MORLEY. No, sir.

Mr. BEALL. And he has no trouble with reference to the sale of that now?

Mr. MORLEY. No.

Mr. BEALL. And so he could not have been speaking of the sale of oleomargarine that was colored by natural process in talking about the evasions of the law?

Mr. MORLEY. No.

Mr. BEALL. I do not want to take up too much of the time of the committee, Mr. Chairman, and I want to apologize for having taken so much time already, but let me ask you—

Mr. MORLEY. There are other speakers here, and our time is limited, and our manager, I see, is getting very anxious about the passage of time.

Mr. BEALL. How many different kinds of products of creameries are on the market?

Mr. MORLEY. In the New York market the creamery products are quoted as specials, extras, extra firsts, seconds, and thirds, as I recall it.

Mr. BEALL. I see here in this Producers' Price Current about ten different creamery products. Now, do you know whether or not the retailers have ever perpetrated any frauds in the sale of creamery products?

Mr. MORLEY. No, sir; I do not know anything about that.

Mr. BEALL. A man comes in who does not know anything about these artificial distinctions, and asks for creamery butter. Does he know whether he is getting creamery special, or extra, or first, or second, or third, of creamery-held specials, held first, second, and third?

Mr. MORLEY. No, sir; I do not know what the retailer does.

Mr. BEALL. Any one of these ten different kinds could be sold by him to the purchaser as creamery butter?

Mr. MORLEY. They are all creamery butter.

Mr. BEALL. And so far as he would know, the ordinary consumer, he would not know whether they were of one class or the other? They are put up about the same, are they not?

Mr. MORLEY. Yes; and he would not know unless he was a good judge of butter.

Mr. COCKS. I do not see, Mr. Chairman, in what direction this particular line of questions is leading. Why not get a commission man from New York who will tell you that? This is a dairyman from Minnesota, and I object to his being asked a lot of technical questions about the trade that he does not know about.

Mr. RUCKER. He knows perhaps as much about it as the gentleman from New York, so far as we know.

Mr. MORLEY. The creamery butter is sold in tubs, graded.

Mr. BEALL. Do the tubs look alike?

Mr. MORLEY. Yes.

Mr. BEALL. Does the product look alike?

Mr. MORLEY. No.

Mr. BEALL. Is there a difference in the color?

Mr. MORLEY. Yes. The color would be the only practical difference in the looks of it, but it is not judged by the color alone. It is judged by the taste, and the smell, and the grain, and the body.

Mr. BEALL. The ordinary consumer, if he went into a store and they had these ten different kinds of creamery butter for sale there, could he tell, by looking at it, what was the best or purest quality?

Mr. MORLEY. I do not know how his judgment would be.

Mr. BEALL. The ordinary consumer, I mean.

Mr. MORLEY. I do not know how good his judgment would be.

Mr. BEALL. There is a difference between 32 cents a pound and 24 cents a pound under these quotations. You can not tell whether he would get the 32 cent kind at 32 cents or the 24 cent kind at 32 cents?

Mr. MORLEY. No, sir; I could not tell. That would depend upon the honesty of the dealer and the intelligence of the purchaser, I suppose.

Mr. BEALL. Usually the retail dealers in butter are also retail dealers in oleomargarine?

Mr. MORLEY. I do not know as to that.

The CHAIRMAN. I understand this witness appeared simply to represent the sentiment of the dairy people, and he does not pretend to be an expert on the retail trade.

Mr. NELSON. Mr. Beall tried to make it appear that there was very little dairy butter produced. Is it not a fact that the farmers generally up in your country and my country sell the cream to the creameries and use creamery butter, and in that way the competition with oleomargarine would come about, just as much as in dairy butter?

Mr. MORLEY. That is what I told him.

Mr. BEALL. I am talking about the butter that is actually made on the farm.

Mr. BURLISON [addressing Mr. Nelson]. Do not lead the witness.

Mr. NELSON. There is not, as a matter of fact, much distinction between creamery butter and dairy butter, so far as that is concerned, is there?

Mr. MORLEY. No, sir.

Mr. NELSON. The attempt has been made here to make it appear that in some way the buttermen would not welcome help to see to it that the butter product was perfectly healthful. What is your opinion as to the attitude of the creamery men as to safeguarding health? Would they welcome any practical inspection by the Government that would remedy any possible trouble that would exist in the dairy business?

Mr. MORLEY. Surely.

Mr. NELSON. That is all.

Mr. HAUGEN. You said you were in favor of the McHenry bill?

Mr. MORLEY. Yes, sir.

Mr. HAUGEN. Is that the position taken by other members who are representing the dairy people who are joined here?

Mr. MORLEY. Yes. That is the position taken by the association that I represent.

Mr. HAUGEN. Have not any resolutions been passed or conclusions reached as to that, as to what particular bill you support?

Mr. MORLEY. The conclusion reached by our representatives here in Washington is that we support the McHenry bill.

Mr. HAUGEN. Unanimously so?

Mr. MORLEY. Yes, sir.

Mr. HAUGEN. Do I understand you support the McHenry bill and nothing else for the present law?

Mr. MORLEY. Yes.

Mr. HAUGEN. You referred to inspection of creameries. I take it that Mr. Beall has reference to the same sort of inspection as the meat inspection?

Mr. MORLEY. That is the way I understood him.

Mr. HAUGEN. Would you have any objection to such inspection, provided you were equipped with the required number of inspectors?

Mr. MORLEY. No.

Mr. HAUGEN. If the Government should fail to provide you with the proper number of inspectors required, what would be the result to the creameries? For instance, if they were under the same regulations as the packing houses are to-day?

Mr. MORLEY. I do not understand exactly what regulations the packing houses are under.

Mr. HAUGEN. The same regulations as the packing houses are under. That was Mr. Beall's provision. I will state for your benefit that our experience in the meat inspection, prior to the present bill, or until the \$3,000,000 appropriation was made permanent, was that the Secretary of Agriculture was unable to provide all the packing houses with inspectors, and it was impossible for them to continue their business, and it was necessary to pass the present bill to provide adequate funds to provide for the inspection. Now, then, without the funds, without the inspectors, it would not be possible for the individual creameries to conduct their business, and it would be necessary for them to centralize their business, would it not, and give it to the trust?

Mr. MORLEY. Certainly.

Mr. HAUGEN. Do I understand you to say that would mean a difference of 10 cents a pound in the price of butter?

Mr. MORLEY. Oh, no; not between the creamery system and the centralizing system. It is the extreme variation of price that the farmer gets.

Mr. HAUGEN. You are not familiar with the prices paid in southern Iowa or northern Iowa?

Mr. MORLEY. No.

Mr. HAUGEN. I think upon investigation you will find the variation more than 10 cents a pound.

Mr. MORLEY. I am not familiar with that.

Mr. NELSON. As a matter of fact, in such States as Minnesota—I know it is so in Wisconsin—they now have inspection?

Mr. MORLEY. We have state inspection of creameries, yes, sir; sanitary inspection.

Mr. NELSON. And it is quite effective?

Mr. MORLEY. Yes; we have a large force.

Mr. STANLEY. You are in favor of both the color line and the tax?

Mr. MORLEY. Yes, sir.

Mr. STANLEY. Do you dread any competition from white oleomargarine?

Mr. MORLEY. No, sir.

Mr. STANLEY. Then, if the law suggested by Mr. Flanders was passed, inhibiting the sale of colored oleomargarine altogether, what would you want with a tax?

Mr. MORLEY. Suggested by whom?

Mr. STANLEY. By Mr. Flanders.

Mr. MORLEY. Well, as I told the other gentleman, I am in favor of this proposition because I have not studied into the others. We are satisfied with the condition we would get out of the passage of the McHenry bill, which would amend the Grout bill.

Mr. STANLEY. In what respect is the McHenry bill better than the other bills of the same kind before this committee?

Mr. MORLEY. The McHenry bill amends the Grout law, which, if it could be enforced, would meet—

Mr. STANLEY. That is not my question. There are a great many bills along the same line as the McHenry bill. Now, what peculiar excellence has the McHenry bill?

Mr. MORLEY. I do not understand that there is any other bill like the McHenry bill, except its companion bill in the Senate.

Mr. STANLEY. There are quite a number of bills looking to the protection of butter.

Mr. MORLEY. Oh, the protection of butter?

Mr. STANLEY. Yes.

Mr. MORLEY. Which bill do you have reference to?

Mr. STANLEY. There are bills introduced by two or three members of the committee; I have not read them all myself. [Laughter.]

Mr. MORLEY. Well, I am in the same fix, Mr. Chairman; I would not pass an opinion on your bills, any of them, because—

The CHAIRMAN. I understand this witness considers himself as a representative of an association which has indorsed this bill, the McHenry bill; therefore he naturally hesitates to express an opinion in regard to any other bill.

Mr. STANLEY. I want to get at this proposition. You favor both the color line and the imposition of a tax, as I understand you, and I tried to pay careful attention; your reason for both is that you think a great industry in Minnesota, as I understand, is endangered by the sale of oleomargarine?

Mr. MORLEY. Yes; if it is colored; not of white oleomargarine.

Mr. STANLEY. Of colored oleomargarine?

Mr. MORLEY. Yes.

Mr. STANLEY. Then, colored oleomargarine, if sold either in violation of the law or in obedience to the law, seriously menaces your industry?

Mr. MORLEY. Yes, sir.

Mr. STANLEY. And for that reason you want the most drastic legislation you can get for the purpose of preventing the sale of colored oleomargarine; is not that correct?

Mr. MORLEY. I do not know that that is the most drastic we could get.

Mr. STANLEY. You favor this bill because it does prevent the sale of colored oleomargarine in competition with butter?

Mr. MORLEY. Yes, sir.

Mr. STANLEY. And you are in favor of such legislation as will prevent the sale of colored oleomargarine where it will take the place of butter?

Mr. MORLEY. Yes, sir.

Mr. STANLEY. Because you feel a great industry would be injured by that?

Mr. MORLEY. Yes, sir.

Mr. STANLEY. And whether its sale is fraudulent or otherwise, it should be discouraged in order to give protection to your legitimate business?

Mr. MORLEY. Whether it is fraudulent or otherwise?

Mr. STANLEY. Yes.

Mr. MORLEY. Oh, no; I do not think there is any colored oleomargarine sold unless it is a fraud. I think it is sold for the express purpose of making the consumer think he is buying butter when he is not getting butter; that is just the point exactly.

Mr. STANLEY. Is your establishment near any town of any size?

Mr. MORLEY. We depend upon the eastern markets; our butter goes to the seaboard.

Mr. STANLEY. Your creamery is not near any town of any considerable size?

Mr. MORLEY. No; a town of about 6,000 inhabitants.

Mr. STANLEY. Is oleomargarine sold in that town?

Mr. MORLEY. Yes, sir; in the winter, usually.

Mr. STANLEY. Do you know whether it is sold as butter?

Mr. MORLEY. No, sir; it is sold in the butcher shops as oleomargarine.

Mr. STANLEY. Sold as oleomargarine?

Mr. MORLEY. Yes, sir.

Mr. STANLEY. You do not know of any of it being sold as butter?

Mr. MORLEY. No, sir.

Mr. STANLEY. Are you injured by that competition there? Are you injured in your business by the sale of that oleomargarine?

Mr. MORLEY. No, sir; not injured, but it affects us in this way: Through the sale of the oleomargarine we sell less creamery butter to the city trade at home, but we care nothing about that, because we get just as much money by shipping it; it does not injure us financially.

Mr. STANLEY. You are not hurt by the sale of oleomargarine in your own town?

Mr. MORLEY. No, sir.

Mr. STANLEY. If it were sold everywhere would you be hurt?

Mr. MORLEY. It is sold everywhere the same as it is sold in our town.

Mr. STANLEY. And are you hurt or injured by the sale of it in the same way?

Mr. MORLEY. That I do not know.

Mr. LEVER. You are here representing the sentiment of the dairy people of your State, and I understand have discussed one or two of the bills before this committee; but you have not discussed the McHenry bill and the Burleson bill, is that true or not?

Mr. MORLEY. Discussed by whom?

Mr. LEVER. By your people, the people you represent?

Mr. MORLEY. Our people, to my knowledge, have not particularly discussed the Burleson bill; the Penrose bill has been discussed; the

McHenry bill was not introduced until after we had our conventions and meetings.

Mr. LEVER. Your people, then, have not, as a matter of fact discussed but one bill pending before this committee?

Mr. MORLEY. No, sir.

Mr. PLUMLEY. I think you have stated, in a general way, perhaps, about the way the butter business is conducted in your State. I would like to know more certainly. You speak of your own immediate locality as having no dairy interests—that is, no dairy butter—but that it is all made through cooperative creameries?

Mr. MORLEY. Yes; practically all of it. There are sections of the State where there is dairy butter made, but very little; most all of those sparsely settled districts ship the cream to centralized plants.

Mr. PLUMLEY. How about the cooperative creameries? What part do they bear in proportion to the centralized creameries? What proportion of the butter work in your State is done by the centralized creameries and what proportion is done by the cooperative creameries?

Mr. MORLEY. I could not give you the figures exactly.

Mr. PLUMLEY. I do not want them exactly; I asked you about.

Mr. MORLEY. I should think two-thirds or three-fourths.

Mr. PLUMLEY. In favor of which creameries? I was talking about the two.

Mr. MORLEY. I understand about two-thirds of the State, possibly three-fourths.

Mr. PLUMLEY. Possibly three-fourths of the State conducts its butter business through the cooperative creameries?

Mr. MORLEY. Yes, sir.

Mr. PLUMLEY. And the cooperative creameries represent the farming interests, just the same as though the work were done at home?

Mr. MORLEY. Yes, sir.

Mr. PLUMLEY. You combine for the purpose of getting the mechanical aids?

Mr. MORLEY. Yes, sir.

Mr. PLUMLEY. You have all the machinery at one place instead of locating it in your different houses?

Mr. MORLEY. That is the exact plan; yes, sir.

Mr. PLUMLEY. Your attention was called to the question of these cows kept on farms. Have you a knowledge of the rule established as to how many cows to a family, taking them on an average, are necessary to maintain a family, an ordinary family?

Mr. MORLEY. No, sir; I could not give you an opinion.

Mr. PLUMLEY. Take it in my State. We have a rule in connection with the letting of farms, where herds are taken as well, that the man who takes the farm puts in one cow and then takes his milk and butter out of the common fund. Would you think that to be about a fair proposition?

Mr. MORLEY. For an ordinary family I think it should be.

Mr. PLUMLEY. The one-cow rule, you think, would be about correct, do you not?

Mr. MORLEY. Yes, sir.

Mr. PLUMLEY. So that you would have on these farms simply one cow for the family, as an average?

Mr. MORLEY. That would be liberal, I should think.

Mr. PLUMLEY. And the rest would be what would be kept to go into public consumption?

Mr. MORLEY. Yes, sir.

Mr. PLUMLEY. You were asked if you understood that the dairy interests, as such, would be affected by the sale of oleomargarine, and you answered, "Not so far as I know." I understood you meant by that simply to say that your own personal knowledge covered nothing of dairy butter?

Mr. MORLEY. That is what I meant.

Mr. PLUMLEY. Can you think of any possible reason why, if dairy butter is made, it will not be injured by fraudulent sales of oleomargarine just the same as creamery butter?

Mr. MORLEY. In localities where they sell dairy butter; yes.

Mr. PLUMLEY. If dairy butter is on the market, it is affected just the same as creamery butter, is it not?

Mr. MORLEY. Surely.

Mr. PLUMLEY. So that in your answer you meant to say you knew nothing about dairy butter?

Mr. MORLEY. I was answering according to my knowledge of it.

Mr. PLUMLEY. You did not intend to be understood as saying that dairy butter must be extracted from such competition?

Mr. MORLEY. Oh, no.

Mr. BURLESON. Your insistence is, as I understand you, that oleomargarine should be sold in its natural color for the purpose of preventing deception?

Mr. MORLEY. Yes, sir.

Mr. BURLESON. You think that is fair and just?

Mr. MORLEY. Yes, sir.

Mr. BURLESON. Mr. Morley, would you be willing that a law should be passed prohibiting the coloring of butter of any kind at any time during the year?

Mr. MORLEY. No, sir.

Mr. BURLESON. Why would it not be just as fair to require butter to be sold without color?

Mr. MORLEY. The only object in coloring butter is to give it uniformity of color throughout the year.

Mr. BURLESON. And for that reason you would not be willing to have a law passed treating butter as you insist oleomargarine should be treated?

Mr. MORLEY. No, sir.

Mr. BURLESON. Why is it desirable to have a uniformity of color throughout the year?

Mr. MORLEY. The desirability of having uniformity of color throughout the year, of course, would be, in the main, to make it sell better. That is what you wanted me to say, I suppose.

Mr. BURLESON. Yes. If the oleomargarine people want to color their product, why would it not be just and fair to permit them to do it?

Mr. MORLEY. They can have uniformity of color throughout the year. If a man becomes accustomed to white oleomargarine why would he care to have it yellow?

Mr. BURLESON. Now, Mr. Morley, do you object to oleomargarine being sold as a substitute for butter if it is sold as oleomargarine?

Mr. MORLEY. If it is sold in its natural color I do not object to it.

Mr. BURLESON. If it is sold, though, as oleomargarine, you still object if it is colored?

Mr. MORLEY. Yes; certainly.

Mr. BURLESON. Now, if under the provisions of the McHenry bill it was impossible to manufacture oleomargarine of high grade during a period of the year would you still insist upon its being passed?

Mr. MORLEY. Well, that is a myth. I am standing for the provisions of the McHenry bill as you have it before you.

Mr. BURLESON. Even though it suppresses the industry of oleomargarine manufacturing during a certain period of the year?

Mr. MORLEY. It does not suppress the industry.

Mr. BURLESON. I say even if it does?

Mr. MORLEY. Why ask me a question with an "if" in it?

Mr. BURLESON. One of the provisions of the McHenry bill is as follows:

For the purpose of this act, oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be classed and taxed as colored oleomargarine.

Now, if during a certain period of the year it would be impossible to manufacture oleomargarine without a shade of yellow, would you insist that every pound should bear the 10-cent tax?

Mr. MORLEY. That is not impossible. We have had testimony here to show that white oleomargarine can be made the year around.

Mr. BURLESON. And also testimony here, Mr. Morley, showing that during what is called the succulents months, if cream, or oleo oil, or butter is used during that period in the manufacture of oleomargarine it will have a shade of yellow, and they can not manufacture it without giving it a shade of yellow.

Mr. MORLEY. Your testimony only conflicts with the other, then. It has been testified to here it can be done. I will pin my faith on the man who testified he can make it white the year around.

Mr. BURLESON. The man who made that statement afterwards corrected it.

Mr. MORLEY. He said it could not be done?

Mr. BURLESON. He said it could not be done, as I understand it. Now, then, if that is true, would you insist upon the suppression of the industry during that period of the year?

Mr. MORLEY. I would insist on drawing the color line sufficient to make the distinction and tax the colored oleomargarine.

Mr. BURLESON. And require every pound of it to bear a 10-cent tax?

Mr. MORLEY. No; it would not.

Mr. BURLESON. I will not argue that with you, Mr. Morley. You say you are secretary of the cooperative dairies?

Mr. MORLEY. Yes, sir.

Mr. BURLESON. You distinguish your association from the centralized creamery association?

Mr. MORLEY. The local creameries or cooperative creameries are simply for the immediate neighborhoods where the farmers draw up with their wagons.

Mr. BURLESON. I say, you distinguish a centralized creamery association from your cooperative creamery association?

Mr. MORLEY. Yes.

Mr. BURLESON. Is it the policy of your organization or the centralized creamery association in your State to kill out the small creameries?

Mr. MORLEY. Is it the policy of the centralizers to kill out the small creameries?

Mr. BURLESON. Yes.

Mr. MORLEY. No, sir.

Mr. BURLESON. Mr. Morley, what do you have to say of this condition, and I read from a report issued by the Agricultural Department:

The investigations show that the cooperative creamery yields the largest returns to the farmer for his butter fat. The individual and combination creameries, usually being located in close competition with the cooperative creameries, pay very nearly as much. The centralizers, where they have gained a monopoly, pay as little as the farmer will accept. Reports for July, 1907, show that in Kansas and Nebraska, where the monopoly appears to be complete, the farmers receive only 17 to 18 cents a pound for their butter fat, while in northern Iowa, Minnesota, Wisconsin, and Illinois, where the cooperative creameries have the field, the prices were from 25 to 26 cents.

The methods of the centralizers are sometimes very reprehensible. Where these concerns have come into competition with small creameries, they have raised their prices to a point that made it impossible for the small concerns to continue, and have thus forced the latter out of business. Competition having been destroyed and a monopoly secured, the prices paid to the farmers were lowered. The large concerns operating over a great territory, with here and there a competitor that they wished to put out of business, could in one locality raise the price paid above that possible to pay with profit, and at other places decrease the price so little as not to be apparent and more than offset the loss. This ability to destroy competition without inflicting self-injury has been used effectively in many localities.

The system of killing the small creameries has been carried on to the fullest extent in southern Iowa, Missouri, Kansas, and Nebraska. Taking Kansas as an illustration, it is found that the number of creameries declined from 133 in 1900 to 67 in 1905, while in Minnesota in the same period, there was an increase from 582 to 905. The decrease in Kansas is attributed to dissatisfaction and distrust on the part of the farmer with the central creamery, to the low prices paid, the poor quality of the butter, the killing of the small creameries, and the loss of all immediate contract between the farmer and the owner of the business.

Now, does that condition obtain in Minnesota at all?

Mr. MORLEY. Certainly not; you read there that the creameries of Minnesota increased.

Mr. BURLESON. I am asking you whether the centralized creameries are in Minnesota practicing this policy of killing the small creameries?

Mr. MORLEY. No, sir; not to my knowledge.

Mr. BURLESON. Let me read this to you:

The loss to Kansas farmers during the last year on account of the low prices alone is estimated at \$1,000,000. If Kansas had made 50,000,000 pounds of butter, as it should, instead of 17,000,000, the income to the State would have been, on the basis of valuation, at least \$12,000,000 greater than it is for the present year, and there would have been no less wheat, corn, alfalfa, beef, pork, or any other crop raised.

Fifteen years ago Kansas and Minnesota stood nearly equal with regard to the creamery industry. Now, Minnesota is not only far ahead in volume of production, but the Minnesota farmer gets 6 to 7 cents a pound more for butter than does the Kansas farmer. What has been said of Kansas applies in general also to Missouri, southern Iowa, and Nebraska.

Is this condition occasioned by reason of the fact that you maintain the cooperative creameries in Minnesota?

Mr. MORLEY. Well, I would infer that that might be; yes, sir. Evidently by that statement you would expect the conditions would be much better in Minnesota than those other States you mentioned.

Mr. BURLESON. Is this one of the results that comes from the centralized creameries: "The centralizers, on account of receiving

cream from long distances, are unable to turn out as high-grade product as the local concerns that use fresher cream, but they are usually managed so as to get every possible cent of revenue from their material. They use the most improved methods of manufacture, get a maximum overrun, and prevent loss in every possible way. The small creameries, on the other hand, are often very lax in these matters, but by reason of the superior quality of their product and their practice of giving full returns to the farmers they are still able to pay 6 or 7 cents a pound more for butter fat. By no means do all of the small creameries make fancy butter, however. Some of them have, doubtless, succumbed largely because of losses which might have been prevented by better methods." Now, do those conditions result from the centralized creameries that exist in your State?

Mr. MORLEY. No; I do not think they do.

Mr. BURLESON. All these excerpts that I have read are from the report of the Bureau of Animal Industry.

The CHAIRMAN. Mr. Flanders, who is your next witness?

Mr. FLANDERS. Thomas Sharpless, president of the Pennsylvania Butter Protective Association.

The CHAIRMAN. I wish you would have Mr. Sharpless state, or you state, Mr. Flanders, the particular phase of the subject that Mr. Sharpless wishes to cover. I would be glad to have that stated, and would then suggest that questions be directed only to that phase of the subject in the interest of expedition.

STATEMENT OF MR. THOMAS SHARPLESS, PRESIDENT OF THE PENNSYLVANIA BUTTER PROTECTIVE ASSOCIATION.

Mr. SHARPLESS. I am a farmer and make butter myself. As I understand it, the discussion that has been had here this morning has had no bearing on the question at issue at all. The question at issue is whether or not oleomargarine shall be sold as a fraud in imitation of butter. That is the question and that is the object of all the bills that I have seen introduced, and I have seen them all, to enable the oleomargarine people to color their oleomargarine in imitation of butter, the color of butter, and then sell it for butter in the end.

In my position, in connection with the Butter Protective Association of Pennsylvania, I have found that 85 per cent of all the samples bought, and they were bought as butter, upon analysis were proved to be oleomargarine colored in imitation of butter.

All we want—and I do not intend to occupy much of your time—you to do in the amendment of the present Grout law is to make it impossible for the manufacturers of oleomargarine to color it so it shall be sold as butter. We think it is unjust and unfair that we men who make an honest, straightforward article—that is, butter, which is made from cows and not made of anything else at all—should have to compete with an article that is a fraud. I do not mean to say oleomargarine is not fit to eat, because there are many grades of it that are good enough to eat. But if it is colored in imitation of butter and sold as butter to the extent of 85 per cent in the State of Pennsylvania, what is the condition over the rest of the nation? We have a law that is tolerably well enforced in the State of Pennsylvania.

Now, I think one of the strongest feelings in the American people is what our ex-President called the "square deal." We are willing that every man should do what he pleases providing it does not interfere with his neighbors. There is a sense of honesty at large in the community that gives a chance to every man to do his business in his own way providing he does not interfere with his neighbors. Now, the dairy industry is a very large industry in the United States, and it is cut into very badly by the fraudulent sale of oleomargarine colored in imitation of butter. If they will sell their oleomargarine as oleomargarine, we won't say a word. I have not a word to say about that at all; I am perfectly willing they should do that.

Mr. STANLEY. Whether colored or uncolored?

Mr. SHARPLESS. Now, the only way the United States Government can control the colored class is by taxing it; it is an internal-revenue question with the Government. I was one of the committee that went to call on Capers when Capers was the Collector of Internal Revenue, and he told us that they sold the stamps in bulk and the manufacturers put them on just as they pleased. I have bought yellow oleomargarine, as yellow as that and yellower [indicating samples on committee table] out of a box that bore the United States revenue stamp of a quarter of a cent, and the United States was cheated out of 9½ cents a pound on it.

Now, it has been mentioned here that it might be sold freely colored or uncolored; the only way the United States Government can control it at all is through the Internal Revenue Department—the collector of the taxes.

I do not mean to occupy your time at all; I only want to present the view to you of the absolute dishonesty of selling the colored oleomargarine as butter. I have examined every one of these bills which have been presented to Congress, and I want to ask you, on behalf of our association and the state grange of Pennsylvania, to pass the McHenry amendment to the Grout law—the McHenry and Penrose bills. Gentlemen, I am obliged to you.

STATEMENT OF HON. JOHN M. NELSON, A REPRESENTATIVE FROM THE STATE OF WISCONSIN.

Mr. NELSON. Mr. Chairman, what time can I have? I would like about thirty or forty minutes.

The CHAIRMAN. Take your own time, Mr. Nelson; we will try to accommodate ourselves to whatever time you desire.

Mr. NELSON. Mr. Chairman, there is grave danger that oleomargarine will either corrupt the butter industry of the country or destroy it. An appeal comes to Congress from the Commissioner of Internal Revenue earnestly requesting remedial legislation. The ingenuity of the oleomargarine interests and the decisions of courts have uncovered loopholes in the present protective law that seriously endanger the public welfare. Therefore, representing a State that excels in the production of butter and a district that was foremost in the fight for the law of 1902, I am most deeply interested in the pending legislation. This is my apology for trespassing upon your time.

HOW TO PREVENT FRAUD.

How to prevent fraud upon the public in the sale and use of oleomargarine for butter was the burden of the appeal to Congress by dairymen in 1902; it is their appeal to you to-day; and it must continue until this question shall have been settled honestly and settled right.

THE PUBLIC GOOD.

The dairymen make this appeal in the name of the people of the United States. They realize, after years of experience, that the dairy industry is so closely identified with the general good that it is only in the complete protection of the public from fraud that they shall find their rightful relief from unfair competition with oleomargarine. They know that when the dairyman suffers once wrongfully through the loss of a legitimate market, the public suffers a twofold fraud—first, in being cheated as to the nature and quality of the food product palmed off for the genuine article, and, next, in being swindled as to the price unsuspectingly paid for the counterfeit.

NOT CONSISTENT.

On the surface all parties appear to agree on the goal as the prevention of fraud in the butter business by means of an effective law. It is but fair to point out, however, that the oleomargarine interests, while claiming to favor the prevention of fraud, are here striving with all their ingenuity and might to tear down the old fence so laboriously built around the pure butter business of the country. When we ask them how they propose to prevent fraud, they speak vaguely of some ideal plan, but their concrete proposition is the Burleson bill with its simple package device and label.

THE BURLESON BILL.

Now, this Burleson bill, as a preventive of fraud, looks to me like a burlesque on effective legislation. My friend, Mr. Burleson, has changed the title of his bill twice. I suggest to him that he reintroduce it under the title, "How not to prevent the sale of oleomargarine for butter, but how to increase it;" and I submit that it will be more in accord with its true contents and his usual candor. Now, I believe that if fraud is to be prevented, it can be done more effectually by erecting barriers than by tearing them down. The simple package device and label of Mr. Burleson's bill looks to me like a cardboard fence constructed from the oleomargarine factory to the retail store, only with not even tissue paper protection for the unsuspecting consumer. If we assume that his package device and label may be effective for the prevention of the fraudulent sale of oleomargarine for butter from the factory to the retail store—yes, even to the housewife, which we may well doubt, for all of them are unsuspecting, others of foreign birth in our great industrial cities are ignorant or careless, and most of them are easily deceived by an unscrupulous dealer—even if we concede all this, I say, what possible protection does this device afford the millions of people that eat at hotels, boarding houses, lunch counters, and restaurants? Absolutely none at all. In plain terms, the Burleson bill is bad, because

it expressly repeals the former law, even that provision that makes effective state laws, relieves oleomargarine from nearly all burdens justly chargeable upon it as costs of inspection, and seeks to remove entirely the familiar mark of identification by permitting it to mask itself in nature's dress for butter—its yellow hue.

THE RIGHT REMEDY.

As a basis for his proposition to tear down the old fence, Mr. Burleson asserts that it is sadly in need of repair. Doubtless that job was not what it should have been, nor what was wanted, but it was the best that could be had under the circumstances. The oleomargarine interests and their allies were as alert, shrewd, and powerful then as now. But if my good friend, Mr. Burleson, is as anxious to prevent the fraudulent sale and use of oleomargarine for butter as he says he is, I most cordially invite him to point out all the places where the boards are down, where oleomargarine gets over, under, or through the fence, and I will most gladly help him nail on some sound oak planks with spikes. But I fear my friend, Mr. Burleson, really may not wish to repair or strengthen the old fence. It is possible that he may be using its present weakness merely as an argument for the promotion of the oleomargarine interests so as to enlarge the demand for cotton-seed oil; if he really wishes to protect the public from fraud, he will join us in our purpose to construct an effective and permanent protection, not of paper, pine, or brick, but of cement and iron.

RIGHT PRINCIPLES.

Assuming, however, that all are sincere in the expressed desire to protect the public from fraud, upon what principles or premises are we to proceed to frame an effective law? Surely no lawmaker can legislate successfully in defiance of common sense and natural law. If we begin with false premises and erroneous principles we shall of necessity fail of justice and righteousness in formulating our legislation for the protection of the public welfare.

NOT EQUAL NOR IDENTICAL.

I wish, therefore, at the outset to challenge the truth of three propositions of the oleomargarine interests before this committee. The assertion or suggestion repeatedly made or implied that oleomargarine is equal to or identical with butter as a food product, irrespective now of all hygienic conditions, does not need the testimony given before the committee of expert chemists, like Doctor Wiley or Doctor Crampton, to disprove it; our own common sense tells us that the assertion is absurd on its face. It is self-evident that sometimes man's necessities, but more often his greed, have enabled him to adulterate deceitfully most of our natural foods, to the great danger of public health and to the exasperation of our pure-food expert, Doctor Wiley. It is also self-evident that if the adulteration is not overdone the imitation may contain ingredients of some food value, which the instincts of greed, if not restrained, will seek to diminish in quality and quantity for the sake of greater profit, but that men who engage in this sort of business will put into their adulterated compound nature's wholesome, nutritious, and life-

sustaining food qualities in the degree, kind, and proportion demanded by the highest needs of the human body no champion of oleomargarine can make sane men believe. The statement collides with common experience, common sense, and natural law.

WILL NOT WIN ITS WAY TO FAVOR.

When it is asserted that oleomargarine, if given a free field, will win its way into favor with the eating public, who does not smile at the woeful lack of knowledge of human nature the statement reveals, or its deeper cunning. Man may be in such dire distress from poverty or want that he will fill his stomach with any adulterated food rather than suffer hunger or starve to death, but when he has a choice he prefers every time nature's own manufacture. We need no expert testimony on this point. We prefer butter for our families and for ourselves; oleomargarine as a food will never win favor with our wives. We know this is true also of our fellow-men, poor or rich alike, all over the country, and we know also that this natural fact holds good in every other civilized nation the world over. In fact, so convinced are dairymen of this fundamental truth of common experience that they do not fear oleomargarine when sold for what it is; they fear it only as a counterfeit fraudulently sold and used for butter.

MUST BE RESTRAINED.

When it is asserted that few restraints are necessary to protect the public from fraud through the sale of oleomargarine for butter the assertion is made in the teeth of official records, human nature, and common sense. This artificial compound was invented as a counterfeit for butter; and what is counterfeiting but falsification? And falsification is fraud. Look into the history of this substitute product in the court records of various States of the Union and in the countries of the Old World; as court records and the revenue office statistics abundantly demonstrate, everywhere it leaves its trail of lawbreaking and fraud. It is not butter that causes the trouble, but oleomargarine, and, as I shall make clear from the laws of the nations of Europe, restrictions are increasing in the almost futile attempt to regulate the sale and use of this substitute compound. This difficulty is inherent in the article itself. It is a counterfeit and, unless restrained by fear under law, it always and everywhere reveals its true nature.

FUNDAMENTAL CHARACTERISTICS.

In legislating upon this exceedingly difficult subject it is the part of wisdom to keep in mind the nature of the article itself, as well as the real motives of the men in this business of counterfeiting butter.

BUTTER.

Now, consider generally the conflicting natures of butter and oleomargarine. Butter asks merely that it may be true to itself; it seeks its highest development wholly from within itself; it appeals only for the preservation of its purity; its prayer is, Save me from adulteration. And when tampered with it tells its truthful story.

OLEOMARGARINE.

Oleomargarine is butter's false self, its evil spirit. It is not true to itself, but pretends to be something else. It does not seek development out of materials within its own life, but borrows anywhere the cheapest possible component parts that will enable it to pass for butter. It does not seek the preservation of its integrity, but invites corruption; and instead of telling the whole truth to the public, as butter does, it seeks even the privilege of covering up its name, nature, and condition by assuming the mask of nature's purest June product.

NO REPEALING NATURAL LAW.

It is well to remember that Congress can not repeal or set aside the fundamental facts of nature, or of human nature. Can Congress by law make an artificially painted flower equal to nature's blushing rose? Can Congress by law make water flow up hill? Can Congress by law turn hungry wolves loose in sheepfolds and reasonably expect that they will not destroy the sheep? Can Congress by law make beasts of prey ply their natural instincts in daylight rather than in darkness? If Congress can do these unreasonable things, if it can defy natural law and common sense, doubtless then it has also the power to make good by law the assertion that oleomargarine, a heterogeneous compound mechanically mixed in a machine, the child of greed sold for gain, is the peer of butter as a food, the product of nature prepared in the living organism of the cow, man's best friend from the beginning of his earthly pilgrimage as a race, the prototype of the kindest gift of God to man—our mother.

NO AGREEMENT POSSIBLE.

Mr. Chairman, we may shut our eyes to nature's law, we may put blinders upon our common sense, but the fact will remain that between these two unequal competitors—man's artificial compound and nature's own product—there must be a war of extermination or the strictest possible control by the Government. The true and the false can never agree. Where a counterfeit substitution is possible, the genuine must fight for its integrity and purity or yield the field to its unscrupulous rival.

MUST MAKE A CHOICE.

This fact must be recognized, and then we should wisely decide which to protect for the common good. Shall we give the people a pure-food law or a counterfeit-food law? The choice ought not to be difficult. The product of the cow has been adapted to the physical needs of man from Adam to the present day. When man first appears upon the plains of Asia, he is accompanied by four animal friends—the cow to give him food, the sheep to give him clothing, the horse to give him power, and the dog to give him protection. But now man has come upon the evil age of adulteration. Fraud is everywhere, not only in butter, but in bread, coffee, clothing, seeds, fruits, paint, furniture, medicine, whisky—who can name them all—everything counterfeited for money, all adulterated for gain. Truly,

this is a commercial age, and the spirit of greed is our commercial god at whose court too often law and liberty, justice and right are made to do menial service.

A RECKLESS PEOPLE.

We are a careless people in many ways, but the height of recklessness is to permit the adulteration of our foods, and, be our attitude what it may, one thing I do know—the eternal law of consequences, cause and effect, will not be set aside because of our neglect. Nature is never disobeyed with impunity, and though I am no prophet, I venture to assert that a people or an individual careless of the use of adulterated foods, will soon or late hear from stomach, pancreas, liver, kidneys, or intestines in no uncertain terms. Nature does not suffer the slightest infraction of her laws without exacting the full payment of the penalty provided in the bond of life with man.

THE MORAL LAW.

There is still a higher law that Congress can not safely ignore for the well-being of society. This concerns the relations of men to each other—questions of right and wrong. The attitude of the respective parties in this contest will serve to illustrate the law. The dairymen ask only for the truth. Let there be light is their plea. The oleomargarine people, on the other hand, ask for the fullest privilege of counterfeiting. Shut off the light is their plea. The butter men do not wish to interfere with any legitimate industry. They ask only for the old right to develop their business, and to have it protected from corruption, for the public good. The oleomargarine people ask permission to play the parasite upon butter, to enter its legitimate field, and to compete with it on an unjust, unfair, and fraudulent basis, for private gain. The dairymen's prayer to Congress is, save our industry from corruption. They realize that the success of the oleomargarine interests means inevitably in the end the wholesale adulteration of the butter industry, or its complete destruction.

AN ABSOLUTE DIVORCE NECESSARY.

Mr. Chairman, let us not deceive ourselves. From the arguments of the gentlemen who champion the cause of oleomargarine, from the conflicting natures of these competing products themselves, and from the inherent difficulties of their ethical relations to each other in their sale and use it is perfectly evident that they can never exist together in a free field. We may cry peace, but there has been no peace, there is no peace, and there can be no peace between such unnatural competitors except on the basis of an absolute divorce of these rival industries.

POWERS OF CONGRESS LIMITED.

Congress can not truthfully treat oleomargarine and butter as equal or identical under the law. There are some things Congress can not do. It can not declare and make good the declaration that the adulterated is identical with the pure, the counterfeit with the genuine, the hypocritical with the honest.

WORSE THAN FOLLY.

Would it be wise for Congress to declare by law that fraud shall not be perpetrated and then give every opportunity and inducement for it? How can Congress save the people from the evil consequences of food adulteration if it shall give a free field to that form of the evil which assails man's bread and butter, the familiar terms under which all man's physical needs have been united?

THE BIRTHMARK OF BUTTER.

Mr. Chairman, I have tried to suggest in a general way the difficulties that must be met in framing an effective law on this subject. We must recognize the fact that there is neither equality nor identity, but irreconcilable difference, in the respective natures of these food rivals; that they instinctively and consistently do business upon entirely different ethical principles, and that the public can be safeguarded from the fraudulent sale of the one for the other only when Congress shall adopt every precautionary safeguard possible under our constitutional form of government, more especially effective means of ready identification, so that fraud may be easily detected not only by the chemist, but also by the consumer. The consumer looks to the color. Will you take away from him this tremendously important birthmark of butter?

CONSEQUENCES.

If the natural law does not permit its violation with impunity, no more does the moral law, either by the individual or the nation. If, therefore, Congress shall say that the counterfeit may have standing with the genuine, if Congress shall tear down the old law or permit it to remain full of loopholes through which this fraud now makes its raids upon the pure butter industry, then in despair the dairy-men may throw up their hands and say, "If these oleomargarine people shall have the right to select fats from animals and oils from vegetables, buy them in the cheapest markets, mix them in machines, fix them up with chemicals, color them in the hue of June butter, and sell this cheap compound to the public for butter, we must do one of two things—either quit the dairy business or corrupt it. We can not quit unless we go into some other business, for we must live, but we can corrupt it. We, too, will gather or buy the fats of animals from the slaughterhouses and the oils of vegetables wherever they can be had at the lowest cost; we, too, will make this artificial compound sanctioned by the law and sell it for butter."

A PRESENT DANGER.

Now, gentlemen of the committee, this is no fanciful dream. One of the high officials of this Government, who has charge of this business in the revenue office, told me that since the oleomargarine dealers had been successful in evading the provision against artificial coloration of butter in the present law the small dairy farmers living near the larger cities—not one, he said, nor two, but thousands having, let us say, 50 customers—would buy a hundred pounds of

this yellow oleomargarine, mix it with 50 pounds of butter, and then supply their unsuspecting customers with this adulterated compound. He added, if the housewives knew what is being sold them for butter this evil would not be tolerated over night. And why should this not be done? If the law permits the sale of animal fats and vegetable oils for butter, why not part butter fats with animal fats and vegetable oils for butter? These adulterators of butter give more to their patrons for the money than do those who sell oleomargarine for butter.

STRICT REGULATION NEEDED.

Mr. Chairman, the only safety for the public against such a possible condition of things is the strictest kind of regulations for the prevention of the fraudulent sale of oleomargarine for butter.

THE PROBLEM BRIEFLY STATED.

The whole moral problem may be summed up in this simple question: Is the unsuspecting citizen, whether he be in a family or a hotel, in a restaurant or at a lunch counter, entitled to know what he spreads upon his bread for butter? Surely he is by every right. Then the law should make good that right.

THE WORLD'S COLLECTIVE WISDOM.

No doubt the problem of prevention of fraud is an exceedingly difficult and delicate one, but we may have the benefit of the collective wisdom of the civilized world, if we wish to avail ourselves of it. Why not, therefore, take some heed of the way other legislative and parliamentary bodies have endeavored to solve this problem?

SALIENT PROVISIONS OF EUROPEAN LAWS.

It is not my purpose to attempt to review here the legislation of the countries of Europe in detail, for I do not wish to trespass upon your time to that extent, but I will point out some of the more salient provisions of the European law.

FRANCE'S EXPERIENCE WITH MARGARINE.

As France is the land that produced M. Mege Mouries, who invented oleomargarine in 1870, we may well look to her for light in dealing with her food discovery. What is France's experience with margarine, by which name it is known in Europe? If you will read the extracts from a public document of the French Chamber of Deputies, published in your hearings, you will find in substance what I have tried to point out in general terms has been France's experience with margarine. Instead of being a favorite with her, this is what she says to the dealer in this artificial food product of her own invention: You shall not sell margarine for butter under penalty of imprisonment, fine, or both. The other countries of Europe expressly or by necessary implication forbid the sale of oleomargarine for butter. Why not amend our law so as to expressly forbid this fraud and add a penalty that will enforce it?

AUTHORITIES TO BE NOTIFIED.

France says to the oleomargarine producer, if you wish to carry on this margarine business you must notify the authorities and submit to government and police inspection, supervision, and control. All the other European nations have followed France in this respect.

THE COST OF INSPECTION.

France has put upon the manufacturers of margarine the duty of defraying the cost of inspection, where it rightly belongs. The inspectors are appointed by the state, their salaries fixed by the state, but these are to be paid by the oleomargarine establishments. One or two other countries have a similar provision of law.

PUBLICITY REQUIRED.

France compels margarine factories, warehouses, and shops to bear a notice with the words "margarine factory" or "margarine shop" in letters at least 1 foot high. Nearly all the other countries of Europe have equal provisions as to notices upon margarine premises. This is intended to give the public full warning of the nature of the business.

FULL POWERS OF SUPERVISION.

France confers the fullest powers upon the Government, through its inspectors and police, to enter at all times any part of the margarine premises, to supervise the entry and quality of the materials, to pass upon sanitary matters, and to prohibit the use of unsound materials, or of such as are injurious to health. Substantially all the other countries of Europe give the government the same summary powers of inspection, supervision, and control. Strange to say, in our law these powers are lacking. In testifying before one of the committees of the House the Internal Revenue Commissioner called attention to the fact that under court decisions he had been deprived of all of the summary rights and remedies that he has as to liquor, tobacco, and the corporation taxes. "This," he says, "deprives us of many summary rights under the revenue laws which are essential." Surely Congress should remedy this defect in the present law.

COMPLETE SEPARATION.

France does not permit persons who make, store, or sell butter to keep margarine on the premises. All the other nations of Europe have similar provisions. Holland permits the sale of these products from the same store, but requires that there be partitions between them. Belgium will not permit the butter merchant to have margarine on hand even for his own consumption, nor may butter and margarine be carried at the same time, nor sold from a market stall within five rods of a butter stall. Denmark forbids the sale of margarine entirely at the markets or from ships. Austria-Hungary forbids a peddler from offering margarine for sale. The purpose of these provisions is to divorce completely these industries so as to remove all temptations for fraud upon the people.

IDENTITY PRESERVED.

France says, further, that the maker of oleomargarine shall not use more than 10 per cent of butter fats. Belgium has the same provision. Denmark permits the use of 15 per cent. Germany and Austria-Hungary forbid entirely the use of butter in margarine. These two nations further provide that in the manufacture of margarine there shall not be used more than 100 pounds of milk or cream with 100 parts of fats not from milk or cream. The purpose of these provisions, I take it, is to preserve the identity of the two rival products, and as the distinct line of demarcation. In this line are the provisions of law of such countries as Germany, Denmark, Sweden, Belgium, and Austria, which provide that 10 per cent of sesame oil must be used in margarine so that the chemists can readily identify the compound. Belgium requires, in addition to sesame oil, the use of starch. Hungary requires the use of dimethylaminoazobenzene. These regulations suggest how important it is regarded in Europe to preserve the identity of margarine.

COMPULSORY INFORMATION.

France further requires all packages, boxes, and cases to bear the word "margarine" in clear and indelible type. The constituent parts of margarine must be shown on labels and in the invoices. In the retail trade margarine must be delivered in cubes with the word "margarine" impressed upon one face. The wrappers must also bear the same inscription. Failure will be held to indicate that the goods are butter and subjects the person violating the provision to the severe penalties of the law. Substantially all the other countries of Europe have similar provisions more or less stringent. All of them are far more effective in detail than the package device and label of the Burses bill. These regulations serve to warn the public of the nature of the compound sold, and tends to prevent its fraudulent substitution for butter.

PUBLIC HEALTH.

France gives the Government the right to pass upon the ingredients so as to safeguard public health. Other countries have followed France in this respect, but Sweden requires that the ingredients be approved first by the Academy of Medicine.

ANTICOLOR.

France was compelled, in her last enactment on this subject, to forbid under all circumstances the coloring of margarine. Italy has been driven to the same provision, and Russia likewise has adopted this wise safeguard. Denmark forbids the use of color, but has worked out a scientific scale of yellow tints from A to F and forbids margarine from using any deeper tint of yellow than No. 9.

NEARLY UNANIMOUS.

On this point let me digress to call the attention of the committee to the fact that 32 States of the Union have adopted this anticolor provision of France, Italy, Russia, and Denmark to protect the consumer from fraud. Vermont and West Virginia have gone so far as to provide that oleomargarine shall be colored pink. Of all the provisions of law to prevent fraud none are more important than the color test.

CANADA'S SOLUTION.

It remains for our nearest neighbor, Canada, to solve this difficult problem in a thoroughgoing manner. Canada forbids entirely the importation, manufacture, or sale of oleomargarine within her dominions in any form. One of the highest government officials gave as a reason for this law that Canada wished to preserve the reputation for purity of her butter in the markets of the world.

SEVERE PENALTIES.

The penalties of European laws are generally exceedingly drastic. With the single exception of Norway, which fixes only a fine ranging from four to five thousand crowns, having very strict government inspection, all the other nations of Europe have penalties of imprisonment and fine, or both. In France, for example, it is imprisonment from three months to a year or a fine of \$20 to \$1,000, or both; in especially aggravated cases it may be imprisonment for two years. Denmark provides a penalty for the fraudulent sale of margarine of two years' imprisonment, and in aggravated cases it may be as high as six years.

ADVERTISING THE CULPRIT.

The law of France further permits the court to order the destruction of the condemned produce in front of the premises of the culprit, to publish the fraud in the newspapers and placard it on the door of the premises for a fixed time. Similar provisions as to placarding the fraud on the premises and advertisement in the local newspapers may be found in the laws of other countries.

ENGLISH PRINCIPLE STATED.

I have here the report of a select committee appointed by the House of Commons to take testimony on this subject. In general it may be said that the laws of England are quite similar to the laws of the other countries of Europe. England is not a butter producer, but the largest butter consumer in the world. I wish to direct attention to the essential principle laid down by this special committee as the basic principle of the English law. This is the language used: "The essential principle of these acts is that nothing shall be sold to the prejudice of the purchaser which is not of the nature, substance, and quality demanded by the purchaser." This statement of principle by the English committee sums up, also, as I understand it, the case of the butter men of America.

A HIGHER LAW STILL.

Mr. Chairman, there is still a higher law that should not go unheeded by legislators in this Christian country of America, a democracy founded upon the great principle of the brotherhood of man. This law finds its perfect expression in the Golden Rule; in daily life we refer to it as the spirit of fair play, and Theodore Roosevelt gave this principle popularity under the name of the "Square deal." Now, I am convinced that the dairymen, in being put into competition with this counterfeit compound, are not getting the square deal. Bear with me a moment while I endeavor to convince you. I am not now thinking of the creamery companies—they are strong and self-reliant—but of the typical dairy farmer, such as my father was when I was a boy upon the farm. The picture I have in mind is not drawn from fancy but from experience. I know what it is to be a dairy farmer. It means to get up at 4 o'clock in the morning to milk the cows and do the chores; it means 9 o'clock at night before the milking is done; it means work Sunday as well as Monday. These cows must have the best of care and shelter. Sometimes food is high and scarce, but the cows must be fed at any cost.

A FARMER'S HARDSHIPS.

Already 65 per cent of the people of the United States have gone from the farms to the cities to live. Hired help comes high on the farm, and so the mother and the children must help the father in the farm work. There is the butter to be made or the milk to be hauled to the creamery. There is always the loss impending of the slaughter of one's milch cows when infected by tuberculosis. Gentlemen here would use a dairy farmer's misfortune as an argument against him. We want help to bear this burden of infectious disease that is resting so heavily upon the farmer of moderate means. Inspection by the Government is given to the packer and to the oleomargarine maker free of cost, surely the dairy farmer will welcome any free practical and reasonable inspection.

IN NO TRUST.

Gentlemen speak of a butter trust. There is a board of trade at Elgin and one at New York that make or give out market quotations of butter for the benefit of the creameries, wholesale dealers, or commission men; but I am pleading for the millions or more farmers in my district, in my State, and in the other States of this Union, who are not the beneficiaries of any board of trade, but more often the victims. You heard the testimony the other day of a practical farmer from Minnesota, who told you that it cost more than 22 cents a pound to produce butter; that the net profit of the dairy farmer for a year's work per cow is the pittance of \$7 and the manure of that cow. Gentlemen, will you make it harder for this farmer to make a living for himself, his wife, and children? Will you further depopulate the farms of this country? Do you wish all our people to move to the cities? Will an urban population safeguard the life of the Republic? The history of Rome is the answer.

THE OLEOMARGARINE MILLIONAIRES.

Now reverse the picture. There are just 25 oleomargarine whole-sale producers. Most of these cluster about a few cities like Chicago and Kansas City, where the great beef trust has its slaughterhouses. The owners of these factories are multimillionaires, and well may they be in such profitable business. They get their fats and their oils as by-products from other industries; they mix these compounds together with machinery, and throw it upon the market as a butter product at an enormous profit.

THE FARMER'S LOSS OF MARKET.

The sale of oleomargarine has already this year amounted to 100,000,000 pounds, and before the present fiscal year is over the total will be 120,000,000. Think of this, gentlemen, and most of it sold to defraud the Government and the public. This means that each of the 25 oleomargarine producers has taken away a market from the dairy farmers of the country of over 5,000,000 pounds—1 pound of oleomargarine to 14 pounds of butter, or, to put it the other way, one consumer for oleomargarine for every 14 consumers of butter—making a total annual loss to the dairy farmer of the country of his legitimate market of over \$30,000,000. If this is a Government founded upon the greatest good for the greatest number, what has become of the spirit of the Golden Rule? Of the spirit of fair play? Of the square deal? Is the oleomargarine producer more than a man? Why should 25 oleomargarine producers, little more than one each for half the States of the Union, have greater privileges before the law than the millions of dairy farmers all over the country? This is "a Government of the people, for the people, by the people"—a Government not of money but of men.

A RIGHTEOUS APPEAL.

Mr. Chairman, we do not ask anything of Congress by way of favor; we do not ask you to suppress any legitimate competing industry; we do not ask for any special privilege; we do insist upon our natural and moral rights, and we hope for the square deal. We believe that the highest development of the pure butter business in this country will promote the public good, and we appeal to you for protection from corrupting influences that threaten to destroy the integrity and the purity of this great national industry. We do so, however, in the name of the people of the United States, well knowing that we shall secure rightful relief from an unfair, unjust, and ruinous competition only in the complete protection of the public from the fraudulent sale of oleomargarine for butter.

The laws I have given are to be found in this report from Great Britain on page 453. The committee sat in 1906. They give the substance of all the laws of Europe.

The CHAIRMAN. What is the title of that volume?

Mr. NELSON. "Great Britain, House of Commons, Sessional Papers, 1906, No. 7."

The CHAIRMAN. The committee would like to close this hearing in fifteen minutes.

Mr. STANLEY. You speak of the Canadian law, would you favor a law like that?

Mr. NELSON. No, sir. I believe it is much better to have a strict law regulating and controlling the product than to have "blind pig" oleo factories all over the country. I believe that we want oleomargarine sold for what it is, but we do not want in any way to interfere with its legitimate sale and use.

Mr. STANLEY. I do not think there is any real difference between a great many of those who favor and those who oppose the various measures. Most of us want to have these products sold for what they are and not one for the other.

Mr. NELSON. That is exactly what we want.

Mr. STANLEY. I have been led by some of the scientists who have appeared before the committee to believe that one product was as wholesome as the other. You challenge that statement. Can you tell me definitely in what respect oleomargarine is less nutritious than butter?

Mr. NELSON. When you sanction the adulteration of butter, you open the door wide for adulteration No. 1, No. 2, and No. 3. Let me illustrate. Doctor Crampton came before this committee and our good friend, Mr. Burleson—and I think a great deal of him, although he is on the other side of this question—tried to get Doctor Crampton to admit that cotton-seed oil was a very excellent ingredient of oleomargarine, but the doctor quickly said it was not, and, as you will remember, he called your attention to Fats, Oils, and Waxes, Volume III, a recent work by Mr. Lewkowitsch, a great English authority. If you will turn to page 23 you will find he gives an analysis of the kinds of oleomargarine produced in the United States. The first is "high-grade oleomargarine," no cotton-seed oil there; next, "medium high-grade oleomargarine," no cotton-seed oil there; and the last, "cheap-grade oleomargarine," lots of cotton-seed oil there. Now, Brother Burleson wants to do this: He wants not only the right to counterfeit butter, but he wants the right to adulterate the oleomargarine and put the cheapest kind of cotton-seed oil in it—an adulteration of food in the third or fourth degree.

Mr. STANLEY. To go back, as I understand, the principal constituent of oleomargarine is beef fat?

Mr. NELSON. I know your question; I will answer it right here.

Mr. STANLEY. I want to know the difference in the fat of cattle extracted by mechanical means and the fat of cattle extracted by a natural process of churning milk, as far as its nutritive value is concerned?

Mr. NELSON. My opinion of that is this: Of course there are fats in this adulterated food product that will sustain life, but they are not like the real thing, the volatile acid is not in the same proportion. As I read the testimony of the experts on this question I find that nature puts up her fats and component parts in certain fixed proportions, which enables the chemists to ascertain if it has been adulterated; they get at it best by the quantity of volatile fats, and, whatever the chemist may find, I believe that doctors would rather give to their invalids, to people of sedentary occupations, and to children butter than to prescribe oleomargarine.

Mr. STANLEY. Is not that a matter of sentiment?

Mr. NELSON. I am not an expert, but I know the difference. I like butter and I do not like oleomargarine.

The CHAIRMAN. Will you both pardon me for suggesting that there is no question before the committee as to whether we shall prohibit the sale of oleomargarine.

Mr. NELSON. None at all.

The CHAIRMAN. And therefore the question as to whether one man likes oleomargarine and another man does not or whether oleomargarine is just as wholesome as butter, we do not care for. While it is a matter of some interest, it really does not belong here.

Mr. STANLEY. I have such a profound respect for the learning of our distinguished colleague who is now honoring us with his presence that I thought maybe he possessed some facts that has escaped Doctor Wiley and the other experts who have testified.

Mr. NELSON. You flatter me. May I just add one thing. This select committee of the House of Commons took testimony on this subject for weeks. You will find its report very interesting. It is in very fine form. They had to meet a new proposition—the use of trade-marks really fraudulent. With them it was not a question of differentiating between butter and oleomargarine, but to prevent fraud in trade-marks. You remember the brands of oleomargarine Mr. Emery had before us. These gentlemen wish to practice fraud even in a State like Wisconsin, where oleomargarine is sold only for what it is; and they work in these sly names, which this select committee in England recommended be prevented. Look at this one, "Swift's Jersey" [exhibiting]; "Swift's Lincoln" [exhibiting], that is not so bad; "Holstein" [exhibiting]. All these advertisements of white oleomargarine with those butter names are intended to lead the unsuspecting consumer to believe that it is butter. See this, "Armour's Buttercup" [exhibiting].

Mr. STANLEY. You have examined very closely, I see, the legislation of all the continental European countries on the subject. How many countries provide an internal-revenue tax upon the legal sale of oleomargarine?

Mr. NELSON. France, as I told you, and one or two other countries abroad make the oleomargarine factories bear the cost of inspection, but none of them goes further than that.

Mr. STANLEY. As a lawyer, do you think that it is a safe principle to engage in this departure, an absolute departure from the principle of all police regulation, of attempting to enforce a law against those who may violate it by imposing a penalty on all who may keep the law?

Mr. NELSON. I fail to follow your question.

Mr. STANLEY. If you impose a penalty of 10 cents a pound upon the sale of oleomargarine for the purpose of preventing the fraudulent sale, you impose a hardship alike upon those who keep the law and those who violate the law, or at least you impose a burden alike upon them. Do you not think it would be wise in such legislation as this to draw a line between laws that are necessary for the purpose of raising revenue and laws that are intended for the purpose of preventing fraud? It appears from my digest of the laws you have given and from the slight attention I have given to the subject that European countries have attempted to prevent the sale of oleomargarine as butter, but they have not attempted to penalize the sale of oleomargarine as oleomargarine.

Mr. NELSON. I think that the 10-cent tax provision was in the nature of a compromise. I believe that what the dairymen would have liked—this is my individual study of the question—was a demarkation here, a color line, and compromised on a 10-cent tax on the artificially colored. I believe it was done so that anybody who wanted oleomargarine colored yellow could get it in two forms, either by buying it white and using a coloring capsule and then only paying a quarter of a cent a pound and, on the other hand, if they wanted it yellow they could get it by paying this tax of 10 cents.

The CHAIRMAN. What Mr. Stanley was trying to do was to get your opinion, whether in your judgment the differentiation in the tax on the colored and uncolored product was an essential part of the bill and contributed materially to the enforcement of the law?

Mr. NELSON. My own opinion—of course it is not worth so much—is this, that what the dairymen want is a clear line of cleavage between butter and oleomargarine. The 10 cents, in a way, they think helps them out. I myself realize that in a measure it makes it a little difficult to enforce as there are two incentives, as the chairman has pointed out, but we must not say that just because a thing is a little difficult to enforce, therefore it should not be enforced. I think that if you shall put some of these provisions of the European laws in this bill, there will be no difficulty at all; and in a large measure that 10 cents covers this unearned increment of which Mr. Emery spoke, if the oleomargarine interests want the benefit of the sale of yellow oleomargarine. Butter has a certain status, a certain market, and the oleomargarine people can get it by paying this extra 10 cents, but I think generally the dairymen would be much better protected if it was a straight color test.

Mr. STANLEY. You speak of European legislation; is that effective?

Mr. NELSON. I judge it is quite effective.

Mr. STANLEY. I presume it is. Right there, to follow up my question: If it is effective, do you not believe that we can protect the dairymen in this country from the sale of oleomargarine as butter by similar legislation, and if we can protect them by heavy fines and penalties imposed upon the fraudulent sale of oleomargarine by the use of our system of strip stamps, which our experience of fifty years has proven to be absolutely effective for all practical purposes in the prevention of frauds under the Government in the manufacture of liquor and tobacco, do you not think it would be better for this committee to attempt to frame legislation that would prevent the imitation of butter by coloring oleomargarine than to continue the imposition of a tax which the executors of the law claim not only does not aid them, but is the prolific source of the nullification of the law—the one difference between it and the other laws is the essential thing that makes oleomargarine regulation a dead letter while all our other internal-revenue laws are enforced with excellent results and efficiency?

Mr. NELSON. Let me answer the question. The statement was made that it was the want of enforcement. Of course it is under the present law. Why? Because under the present law the courts have decided that only a few of the revenue laws are applicable, and without quoting anyone now—because there is an executive order, you know, that no officer can divulge information except in compliance with this executive order and permission from the head of a

department—I have talked with a great many officials that are engaged in the execution of this law. What is the difficulty? If without authority of law revenue officers go into a place where they think oleomargarine is sold or made, they run a great risk. In one place an officer was actually shot.

Mr. STANLEY. That was testified to before the committee.

Mr. NELSON. Let me answer the question. In another place they broke in, they took a chance, and they found half a dozen men with 40 tubs mixing up the oleomargarine. Was that testified to?

Mr. STANLEY. Yes, sir.

Mr. NELSON. You give us an effective law and there will be no trouble about the 10 cents.

Mr. STANLEY. You do not insist upon the 10-cent tax upon colored oleomargarine, if we give you an effective law?

Mr. NELSON. Personally, if you will draw the color line I may vote for your bill.

Mr. STANLEY. I am not speaking of the color line—as effective a law as they have in Europe without the color line. You want protection from the fraudulent sale of oleomargarine?

Mr. NELSON. Yes, sir.

Mr. STANLEY. If we can by stringent, drastic, practical legislation prevent the sale of oleomargarine as butter, do you object to the sale of oleomargarine instead of butter to people who want it?

Mr. NELSON. They can do that under our bill.

Mr. STANLEY. From the point of view of a legislator, do you think it is wise—you have said a great deal about humanity—to increase the cost of a wholesome food product to a man who has to have it?

Mr. NELSON. The poor man?

Mr. STANLEY. Yes, sir; if you can get the result without it?

Mr. NELSON. I am in favor in this country, in general, of letting anyone have his own way, under regulations. If anybody wants to eat oleomargarine he should have it, but being an article that is causing all this trouble, necessitating all the revenue officers, appropriations, and causing the court expenses, it should largely bear the burden of its own inspection. If a man is so poor that he wants it, I am in favor of his having it; and he should get it by paying a lesser price, not a butter price. The argument made by these gentlemen does not appeal to me—about the poor boy in school who has to eat oleomargarine when his neighbor has the colored article, and he wants to have it colored so as to deceive himself and others. I believe that that boy will be better off if he does not think his oleomargarine is butter, just as he wears the patch upon his pants; in all honesty, his honest badges of poverty will prove incentives for him to become a bigger and better man than by trying to deceive himself and others into the belief that he has something on his bread that he has not.

The CHAIRMAN. You referred to the Danish law, which prohibits the manufacture of oleomargarine—

Mr. NELSON. Of a tint of yellow deeper than No. 9.

The CHAIRMAN. Do you know whether the tintometer which, I believe, they have worked out there is in use in this country anywhere?

Mr. NELSON. I think not, but I think they have men working at it.

The CHAIRMAN. Have you ever seen the instrument?

Mr. NELSON. No, sir. I thought possibly that might meet Mr. Burleson's legal objection.

The CHAIRMAN. As I understand, if that sort of a law were enacted there could, of course, be no occasion for a differentiation in the tax because there would not be any such thing as colored oleomargarine in the sense that we use that term now; that is to say, all oleomargarine would be essentially of the same tint. Is that true?

Mr. NELSON. I think so.

Mr. BURLESON. If for any reason a food product should become so high as to be beyond the reach of a large number of people, is it desirable, in your opinion, to provide a substitute that is wholesome and nutritious for the high-priced food product?

Mr. NELSON. You assume that this is wholesome and nutritious, and if I try to reply to that it is sort of begging the question. If you mean—

Mr. BURLESON. I am going to ask you some questions, as far as I can, that can be answered categorically and not consume so much time.

Mr. NELSON. And I shall reserve the right to answer them as I think they should be answered.

Mr. BURLESON. Certainly. You understand my question?

Mr. NELSON. And I proceeded to answer it, but you did not want my answer.

Mr. BURLESON. Would you consider it desirable to secure a wholesome substitute for this high-priced food product?

Mr. NELSON. Now, your question assumes that this article is wholesome and nutritious, and, as I pointed out, the difficulty with your assumption was that you wanted an adulteration in the third degree. Now, then, if you ask me the question, Do you want the people to have the right to buy oleomargarine if they want to and can get it at 10 cents or 12 cents? I say yes.

Mr. BURLESON. My question made no reference to butter or oleomargarine.

Mr. STANLEY. In a court of justice there is a practical agreement on a state of facts, and this discussion was predicated on the idea before proof was introduced that oleomargarine and butter were alike wholesome.

Mr. NELSON. That I deny emphatically.

Mr. PLUMLEY. That does not bind this witness.

Mr. BURLESON. I made no allusion to either butter or oleomargarine.

Mr. NELSON. You asked me the question.

Mr. BURLESON. I asked this question: If for any reason a food product becomes so high in cost price that it is beyond the reach of a large percentage of the people, is it desirable to secure or provide a wholesome substitute therefor?

Mr. NELSON. It is; a pure substitute therefor; not an adulterated substitute.

Mr. BURLESON. I did not ask you for any argument, Mr. Nelson.

Mr. NELSON. You asked the question, and I desired to answer it according to the real purport of the question.

Mr. BURLESON. If you consume so much time, I will not be able to ask you the questions that I desire.

Mr. NELSON. I shall ask unanimous consent that the time be extended.

Mr. BURLESON. Proceeding upon the assumption that you have answered that question in the affirmative, is it desirable that this substitute shall be made as attractive as it is possible to make it?

Mr. NELSON. Yes, sir; but not so that it counterfeits something else.

Mr. BURLESON. I will proceed upon the assumption that you have answered that question in the affirmative. Now, if this substitute for the high-priced food product is sold for what it is, should there be any burden placed upon it by government agency?

Mr. NELSON. It should stand upon its rights the same as butter, but it should bear those burdens that are justly chargeable to it. That is the thought I have in mind.

Mr. BURLESON. What do you mean by "justly chargeable?" Do you believe that any food product should be taxed when other food products are not taxed?

Mr. NELSON. You are assuming again, Mr. Burleson, that this is a satisfactory kind of food product. I have tried to show you this fact, that here is oleomargarine trying to be sold for butter, and we have got to legislate according to things as they are. This is the unnatural state, the one counterfeiting the other, and we must differentiate, and as oleomargarine has been in existence only as long as I have, born the same year, coming into the field to compete with a world-wide product from the ages down—a food that has made a market for itself—and if oleomargarine wants to take its dress and be sold for the other thing and not for itself, it should pay for the inspection, as France provides, so that the burden of looking after this competitor should not also be assessed upon the millions of dairymen.

Mr. BURLESON. Then, you concede the proposition that the extent of the burden which should be laid upon this wholesome food product used as a substitute for the high-priced product is the cost of inspection to prevent it from being sold as the original product?

Mr. NELSON. With this other element which I can not quite reckon the amount of, this unearned increment. How much is that worth; how much is that trade-mark worth?

Mr. BURLESON. What trade-mark do you refer to?

Mr. NELSON. The color yellow. I say that is nature's trade-mark for butter. That is the thing. If you refer to the statement of Mr. Jelke, and I will find it—

Mr. BURLESON. Let me take you up on your proposition.

Mr. NELSON. I would like to read what Mr. Jelke says.

Mr. BURLESON. Would you deprive the persons of this country who are too poor to buy butter from having the same color in the substitute that they purchase?

Mr. NELSON. No, sir. The McHenry bill provides two chances, one by paying a quarter of a cent and then coloring it themselves or they can get it by paying 10 cents more and have it in the yellow form. Could there be anything more just than that?

Mr. BURLESON. Your insistence is that oleomargarine should be sold in its natural color?

Mr. NELSON. Yes, sir; to prevent fraud.

Mr. BURLESON. Do you think that is fair and just? Are you willing to have the same law applied to butter?

Mr. NELSON. Butter—

Mr. BURLESON. If you had to square up?

Mr. NELSON. Butter for seven months or so in the year is yellow. Now, then, personally I do not care—

Mr. BURLESON. It is always butter?

Mr. NELSON. Yes, sir.

Mr. BURLESON. Now, come right up to the scratch.

Mr. NELSON. For five months of the year, possibly, they have to color butter to bring it up to the racial condition. Our mothers did that with carrots years ago. Another reason is, that now your product has gotten into the field, they want to get away from it as far as they can.

Mr. BURLESON. Did I understand you to say that it was right? I asked if you were willing to have the same rule of morals apply to butter?

Mr. NELSON. The rule of morals is this: There is no fraud. Butter colored is butter, and oleomargarine colored for butter is not butter. There is the difference in morals. When I buy butter I know that I am getting butter, but when I buy yellow oleomargarine for butter, that is a fraud upon me.

Mr. BURLESON. I do not still understand your answer to the question, have you answered it in the affirmative or the negative?

Mr. NELSON. I answered it very truthfully, as will appear from the record.

Mr. BURLESON. And very evasively. You have spoken rather harshly of the package provision in the bill introduced by me. By what process of reasoning do you reach that conclusion as to the package provision in the bill introduced by me? It is more stringent than the package provision embodied in the McHenry bill.

Mr. NELSON. Well, I think there is a great deal of virtue in your package provision, and standing alone it would improve the present situation; but my point was that it only goes to the retailer, and in my judgment it could be more effective. For instance, as I recollect it, I have read so many of these provisions and I may be mistaken, but I do not believe your bill provides—yes; I believe you had the strip provision?

Mr. BURLESON. The strip stamp and a severe penalty for selling it in a broken package.

Mr. NELSON. What sizes?

Mr. BURLESON. One, 2, and 3 pounds, no tubs or firkins, but 1, 2, and 3 pound packages, indented with the word "Oleomargarine," wrapped in paper with the word "Oleomargarine," with a strip stamp around it, and a severe penalty for selling it in a broken condition. How could that be improved?

Mr. NELSON. I would like to have that amendment put in our bill.

Mr. BURLESON. How could it be strengthened to prevent fraud?

Mr. NELSON. I have not gotten down to the detailed study. I will give you my general impression.

Mr. BURLESON. That is what this committee is considering. You admit that the present law is a very imperfect law, and that great fraud is being perpetrated under it.

Mr. NELSON. I admit that the ingenuity of the oleomargarine people has gotten around the color provision and the courts have uncovered the weakness of lack of machinery.

Mr. BURLESON. I care nothing about your charges against the oleomargarine people, but you said that there were thousands of dairy farmers, thousands of dairy farmers fighting this bill?

Mr. NELSON. You are not stating the whole truth. I said right around the big cities.

Mr. BURLESON. Did you or did you not say that there were thousands, use the word "thousands," of dairy farmers?

Mr. NELSON. Do you want the exact language? I quoted from one of the officials of the revenue service that "there were not one nor two, but thousands around the great cities." That is the language I used.

Mr. BURLESON. You admit the imperfection of this law?

Mr. NELSON. Not admit it, but I insist upon it.

Mr. BURLESON. To do what; prevent fraud?

Mr. NELSON. Yes, sir.

Mr. BURLESON. Fraud in the sale of oleomargarine as butter?

Mr. NELSON. Yes, sir.

Mr. BURLESON. I have detailed to you the provision relating to the package in which oleomargarine is to be embodied taken from my own bill?

Mr. NELSON. You have.

Mr. BURLESON. Can you indicate how it can be strengthened in any particular?

Mr. NELSON. Not in itself; but there may be ten or more remedies and you have only one in your bill. You also repeal the good provisions of the present law. To begin with, you repeal the law which gives the States the right to have their laws effective when oleomargarine gets into the States.

Mr. BURLESON. You do not claim that the law embraces in the slightest the powers reserved by the States, the police regulation as to the control of the sale of oleomargarine?

Mr. NELSON. We have had plenty of testimony here that when oleomargarine people under prosecution can refer to the national law, it makes it very difficult in many jurisdictions to enforce the state law, and if the Government would cooperate with the States it would be vastly easier.

Mr. BURLESON. I do not know of the Government ever cooperating with the States in the prevention of the sale of oleomargarine as butter. If the original-package provision embodied in my bill passes, it will remedy that.

Mr. NELSON. You repeal the other things. You give something with one hand and take away a lot of things with the other hand. I admit that the package provision, so far as it goes, is a good thing, and we would gladly adopt that, but you are giving that only.

Mr. BURLESON. But if that would prevent the violation of law?

Mr. NELSON. But it will not.

Mr. BURLESON. Why?

Mr. NELSON. Because I have reasons and you have—

Mr. BURLESON. Without examination?

Mr. NELSON. Let me answer your question. You do not want me to answer your question.

Mr. BURLESON. I want you to answer it to your own satisfaction.

Mr. NELSON. You directed your question in your own way and let me answer it at my leisure.

Mr. BURLESON. This is practically the same law that obtains with reference to the sale of tobacco.

Mr. NELSON. Without the summary rights and remedies.

Mr. BURLESON. How do you know that it is without the summary rights and remedies?

Mr. NELSON. Because the Commissioner of Internal Revenue so testified before the Appropriations Committee most vigorously.

Mr. BURLESON. I am talking about the proposed measure.

Mr. NELSON. Your measure?

Mr. BURLESON. Yes, sir.

Mr. NELSON. I understood—I may be mistaken—that you only repeated the present provisions of the Grout law so far as the powers of the revenue officer are concerned.

Mr. BURLESON. Oh, no. You have not read the bill.

Mr. NELSON. Yes, I have.

Mr. BURLESON. Where I specifically extend sections 3232, 3233, 3234, and 3235.

Mr. NELSON. Let me ask you a question. Will you support the amendment in the present appropriation bill, giving the revenue officers all the summary rights and remedies?

Mr. BURLESON. I am perfectly willing to have it embodied in a bill and enacted in accordance with the rules of Congress.

Mr. NELSON. But you will fight it now?

Mr. BURLESON. Certainly. I do not think it should be put on to an appropriation bill, because it would be a palpable violation of our rules. We are now endeavoring to perfect this law. One other question, Mr. Nelson. You have declared in favor of the McHenry bill, have you not?

Mr. NELSON. I think that is a good working basis, but I am going to offer amendments to it if I have the opportunity.

Mr. BURLESON. Are you opposing the manufacture of oleomargarine altogether, as they oppose it in Canada, and do you commend the law of Canada?

Mr. NELSON. I just answered that question.

Mr. BURLESON. You are not?

Mr. NELSON. No.

Mr. BURLESON. If, under this provision of the McHenry bill, which I will read to you [reads]:

For the purpose of this act, oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be classed and taxed as colored oleomargarine—

it would be impossible to manufacture oleomargarine during certain months of the year, would you still insist upon that provision in the law?

Mr. NELSON. If that were the only way, Mr. Burleson, in my judgment, as a legislator, to prevent fraud, I certainly would, because butter has the first right; and the greatest good to the greatest number would govern me in the prevention of fraud more than sacrificing something to attain something better; and if you can work out an ideal scheme and I can see it, and—

Mr. McLAUGHLIN. Having in mind also the fact that the oleomargarine manufacturers say, and there is no question that it is a fact, that the purest oleomargarine is the pure white?

Mr. NELSON. Yes.

Mr. BURLESON. Then, Mr. Nelson, as I understand it, you insist, in the interest of a limited number of butter makers of this country,

that the great consuming American public should be deprived of this substitute for butter?

Mr. NELSON. Why, you have an assumption there of the limited number of butter producers. If I answered that question either way I would make an admission.

Mr. BURLESON. Let me ask you, Mr. Nelson, does the question involve a misstatement of fact?

Mr. NELSON. Yes, sir; there is no such limited number of butter makers in the country in the sense you would have us understand.

Mr. BURLESON. As compared with the consumers?

Mr. NELSON. But you made no such comparison.

Mr. BURLESON. But that is the proposition. You would, then, in the interest of the limited number of people engaged in the making of butter, deprive the great consuming American public of a substitute for butter?

Mr. NELSON. Now, there is another assumption, that the great American public are all consuming oleomargarine. The great American public are consuming butter, Mr. Burleson, and only oleomargarine when it is put in the deceitful form of butter.

Mr. BURLESON. And you would force them to continue to pay the price whether they wanted a cheap substitute or not?

Mr. NELSON. The price is another assumption. I have found, and I believe it is testified to here, that when they want oleomargarine they can get it by paying the price of oleomargarine, and when they got the yellow stuff they paid 2 or 3 cents less than for butter.

Mr. BURLESON. That is the existing theory, but we are trying to re-form this law so as to make it impossible.

Mr. NELSON. How would you prevent it?

Mr. BURLESON. By the enactment of the bill which I introduced you absolutely prohibit this fraud.

Mr. NELSON. I deny it; you do not even protect the housewife, nor the families of the people who are eating at boarding houses, hotels, and restaurants, and lunch counters. Now, you laugh at me, but I want to tell you that when I went home——

Mr. BURLESON. You will pardon me if I do not care for any of your individual experiences.

Mr. NELSON. But for the benefit of the record, I am not answering in this way to give any individual experiences; I am answering it as a matter of trying to get at the truth of this thing, to get it in the record, and for the benefit of Congress. Now, then, I went home by the way of Baltimore, Philadelphia, New York, Albany, Niagara Falls, Detroit, Chicago, and Milwaukee, and I want to tell you, Mr. Burleson, that I became one of those consumers at boarding houses, hotels, and restaurants, and I saw millions of American people doing the same thing. And when I travel I want the right, when I go into a restaurant, and they give me certain stuff to eat, to know whether it is butter or not; whether I am a poor man or a rich man I have the same right. And your bill absolutely does not cover that. Do you claim that it does?

Mr. BURLESON. That is a matter of police regulation.

Mr. NELSON. Oh, yes; that is a matter for somebody else; the Congress, if we have the power, should do it.

Mr. BURLESON. You don't want to say that you haven't the power?

Mr. NELSON. That is another assumption, Mr. Burleson.

Mr. BURLESON. Let me ask you this question, Mr. Nelson, and then I will conclude my interrogation of you. If under the provisions of this package provision which I have read to you the fraudulent sale of oleomargarine as butter could be prevented, would you still insist upon the 10-cent tax upon yellow oleomargarine?

Mr. NELSON. There is that "if" again, Mr. Burleson. You want me to answer with regard to an ideal situation. I have to answer as I have it. Will you take the Burleson bill or take the McHenry bill? I say the Burleson bill is to my mind an oleomargarine bill, a cotton-seed oil bill, while the McHenry bill is a butter bill, and I am going to stand for that.

Mr. BURLESON. Then your answer to that proposition is that even if the fraudulent sale of oleomargarine as butter can be prevented, and could be prohibited under the terms of the Burleson bill, you would still insist upon the 10-cent tax provided for in the McHenry bill?

Mr. NELSON. Do you want me to go all over the reasons again?

Mr. BURLESON. That question can be answered yes or no.

Mr. NELSON. That sums up the whole business if I say yes or no, but it does not tell the whole truth. I have given the reasons. In the first place you assume an ideal condition.

Mr. BURLESON. Well, assuming an ideal condition, I want to see if you will answer.

Mr. NELSON. Well, assuming an ideal condition, what is it you want?

Mr. BURLESON. Under the bill introduced by me, providing for the sale of oleomargarine in original unbroken packages, that would prevent the fraudulent sale of oleomargarine as butter, but you would still insist upon a 10-cent tax.

Mr. NELSON. I would not, and there are many elements back of that 10-cent tax besides what you suggested that we might go into, as the unearned increment pointed to by Mr. Emery and the compromise. Do you wish to have us give up that compromise and have the straight color line?

Mr. BURLESON. Undoubtedly; I insist that there is no more justice or equity or virtue in the tax of 10 cents a pound on oleomargarine than there would be on butter; absolutely none. If it is an unwholesome product, it ought to be suppressed under the pure-food law. If it is not an unwholesome product, then it ought to be permitted to be sold, not as butter or anything else, and this bill would prevent it.

Mr. STANLEY. The crux of this proposition, to my mind, is one answer that you made to Mr. Burleson, where you said that his bill was a cotton-seed oil bill, and the McHenry bill was a butter bill. As I understand Mr. Burleson's bill, it is written in order to give an advantage of at least additional prosperity based upon law rather than labor to the manufacturer of cotton-seed oil. The McHenry bill does the same thing, excepting that it helps the butter maker. Now, have you ever considered at all that there are quite a number of people in the United States who may legitimately demand legislation not in the interest of the cotton-seed oil manufacturers and not in the interest of the dairies, but in the interest of themselves? Don't you think that the bill that this committee should frame should be framed in the interest of the great masses of people who have no ax to grind either way?

Mr. NELSON. Mr. Stanley, did not I begin and end on the same thing; that we stood for the protection of all the people from fraud, and that we realized that we had to stand on that because inevitably in that achievement we would find our protection?

Mr. STANLEY. You were speaking of two bills, one butter and the other cotton-seed oil. I want to eliminate——

Mr. NELSON. I did not mean any offense to my friend, Mr. Burleson.

Mr. STANLEY. I did not mean that you meant to be offensive, but I think that you were probably telling the truth. [Laughter.]

Mr. HAUGEN. The Burleson bill repeals section 1, which gives the several States authority over oleomargarine?

Mr. NELSON. So I understand it.

Mr. HAUGEN. The courts have held in these matters that the States have no power to interfere in the sale or importation; it may be sold from the original package, and that section of the bill would be repealed by the present bill. Now as to coloring matter, what is the natural color of oleomargarine?

Mr. NELSON. As I see, it is white.

Mr. HAUGEN. Have you any objection to coloring it and making it white, the natural color?

Mr. NELSON. Why, no; I want things to be what they are.

Mr. HAUGEN. You have no objection, then, to coloring the product in its natural color?

Mr. NELSON. What do you mean, to make it all white?

Mr. HAUGEN. Yes.

Mr. NELSON. Of course.

Mr. LAMB. It is white, anyhow.

Mr. HAUGEN. But you have objection to coloring it in imitation of something else?

Mr. NELSON. Yes; that is the fraud I tried to point out. The Governments of Europe try to draw the line and permit the identification of the two products; they insist upon the identification.

Mr. JELKE. Mr. Nelson, I recognize in you an able lawyer, and we will agree that the power to prevent fraud is the exercise of a police power, will we not? And that is one of the powers reserved to the States. Are you familiar with the McRea case, in which the Grout bill was sustained?

Mr. NELSON. I have not made a detailed study of the court decisions.

Mr. JELKE. Then I will state a little bit of it to you. The Supreme Court in that case sustained the Grout bill, adverted to the exercise of the police power and went on to say that we are bound to assume that this is a revenue maker, because Congress has so called it, and because Congress has called it a revenue maker we will so hold it to be and sustain it. Does that appeal to the conscience of a lawmaker, to resort to a device that can only be sustained by an assumption which the lawmaker knows is not true?

Mr. NELSON. Unfortunately that is what we have to do every day in Congress. When we fixed up the postal savings-bank bill we had this problem always to contend with: We have got to base it upon constitutional powers. This is a Government of delegated power. We have got to take one of two foundations. We have got to either fix it on the taxing power or upon the commerce clause of the Con-

stitution. We have taken one, and the courts sustained us. Now, from the point of view of revenue entirely, and the bearing of this burden of inspection of your product, it costs millions. The department is asking for a larger appropriation this year to control this business. Is it on account of the butter or on account of the oleomargarine that these appropriations are necessary? It is on account of the oleomargarine and some renovated butter. But the reason why the Commissioner of Internal Revenue says that he has got to have more help is on account of the oleomargarine.

Mr. JELKE. According to his testimony it is not a revenue-producer for the general purposes.

Mr. NELSON. Oh, I don't believe it was intended for a revenue-producer.

Mr. JELKE. It was intended to prevent fraud?

Mr. NELSON. It was intended in a measure to prevent fraud, as a kind of balance against unearned increment, and, again, for the purpose of compromise on the color question. There were other purposes in it besides revenue, but I think revenue incidentally.

Mr. JELKE. Well, then, Mr. Nelson, you have certain police powers so far as inspection is concerned.

Mr. NELSON. Oh, I don't think so. We have only those powers that are delegated under that clause.

Mr. JELKE. But in the regulation of interstate commerce you can go very much further under those powers.

Mr. NELSON. I think our best powers are the taxing powers. When we get into the States then the commerce power fails.

Mr. JELKE. But it is strictly a sincere use of taxing?

Mr. NELSON. It is a very effective use, Mr. Jelke.

Mr. JELKE. That is a very good answer, but it does not answer my question.

Mr. NELSON. Not as you want it answered; no.

Mr. JELKE. And not as you feel in your heart and conscience it should be answered. Is it a sincere use?

Mr. NELSON. I want to say for the benefit of you, Mr. Jelke, that you are the fairest oleomargarine man I ever saw, and if they were all of your kind I don't think we would have much difficulty. You and your brother gave some fair and practical testimony here.

Mr. McLAUGHLIN. You do not believe in deception in legislation in the protection of butter, either?

Mr. NELSON. No.

(Adjourned at 2.45 p. m.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Monday, May 16, 1910.

The committee met this day at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. Are your people ready to proceed, Mr. Flanders?

Mr. FLANDERS. I would like, Mr. Chairman, to make one request, and that is that there be one more day's hearing, or a half day, for us.

The CHAIRMAN. That is, you desire that we proceed this morning and then to-morrow morning?

Mr. FLANDERS. Yes.

Representative TAWNEY. Mr. Chairman, I can not very well be here this morning, although I wanted to say a few words to the committee. If it would be convenient to the committee, it would suit me very much better to be heard to-morrow morning. I would want only about fifteen minutes.

The CHAIRMAN. We will be glad to accommodate you in any way we can, Mr. Tawney.

We will proceed now, Mr. Flanders, with the understanding that the hearing shall continue this afternoon, and then we will give you to-morrow morning.

Mr. FLANDERS. Won't we have an afternoon session?

The CHAIRMAN. If one is required; yes.

Mr. CURRIER. I believe we have a half day coming to us if we desire?

The CHAIRMAN. Yes.

Mr. FLANDERS. Mr. Chairman, I now introduce Prof. George L. McKay, secretary of the American Association of Butter Manufacturers, and formerly professor in charge of dairying in the Iowa State College.

**STATEMENT OF PROF. GEORGE L. MCKAY, OF CHICAGO, ILL.,
SECRETARY OF THE AMERICAN ASSOCIATION OF BUTTER
MANUFACTURERS.**

Mr. MCKAY. Mr. Chairman, I assure you I am glad to appear before you for a few minutes. I will have to crave your indulgence, however, because I have got a tremendous cold. In discussing the Burleson bill, which calls for a lowering of the tax on colored oleomargarine, I would say that, as I understand this question, the primary reason given by friends of this bill is that a 10-cent tax is conducive to fraud, and that a lowering of the tax would tend to give protection to the consuming public and those who are in favor of honest dealing.

Most all of our laws are violated, more or less, we are told; yet this is the first time that I have known a removal of the penalty to be advocated as a means for diminishing crime. Usually when a man steals he does not do it because there is a penalty attached, but for the value of the article. So when the dealers of oleomargarine color their product in imitation of butter it is done to increase its value.

We might reasonably ask, who are the violators of the law? Not the consuming public, certainly not the dairymen. Then it must be the people who are dealing in this traffic. There are honest men dealing in oleomargarine, and no doubt there are honest manufacturers of oleomargarine. Then why should we remove the so-called 10-cent tax and give the violators of the law free rein?

In my judgment the question to be solved by Congress is whether the butter of the future is to be produced on the farms, from the product of the cow, or be manufactured in our packing houses from the intestinal fats of the steer and the products of the hog. This is a serious question to the American people.

In practically all civilized countries that are adapted to the growth of forage plants, dairying has been encouraged by state or federal aid. In our own country we find that nearly all of our agricultural colleges have dairy departments whose work it is to stimulate and encourage

dairying in their respective States. In addition to this, many of our States have also food and dairy commissioners, as well as dairy experts traveling over the country giving information to the producers and manufacturers. We find, also, that the Department of Agriculture has a special dairy department that employs a lot of men for promoting dairying and helping to raise the standard of our dairy products. The reason why dairying has been encouraged by all civilized countries is that it not only gives profitable returns, but it tends more to conserve the fertility of the soil than any other line of agricultural pursuits. Particularly is this true in the case of butter.

We do not find in any state colleges chairs established for the encouragement and production of oleomargarine, but we do find in practically all countries laws restricting its sale.

The natural color of butter is yellow, and the natural color of oleomargarine is white, as Mr. Jelke stated here; or, more correctly, to the naked eye it appears to be white. The bulk of our butter is made in the summer months when coloring material is not needed. Two of our leading breeds of dairy cattle produce high-colored butter the year around. I refer to the Guernsey and Jersey breeds. It would be impossible for dairymen to make butter of any other shade than yellow with about three-quarters of their make if the cream were churned in its natural condition. Consequently yellow is regarded as the butterman's trade-mark. In the winter months when cows are on dry feed, the butter possesses a very light shade unless cows are fed on certain roots. Consequently a little harmless vegetable coloring is used in order to keep the shade of butter put upon the market uniform throughout the year.

An attempt has been made here by the friends of oleomargarine to confine their remarks to the nutritive value and wholesomeness of this product. That is a secondary consideration. No intelligent man who has given the subject a thought can deny that oleomargarine has nutritive value. Chemists have been brought in to demonstrate this point. This product has been in the markets of the world for about forty years, so the public should know its merits as a food product. But I have never observed that the friends of this product have made any attempt to give to the public its ingredients. I would like to give the different ingredients as published in the book entitled "The Modern Packing House," by F. W. Wilder, former general superintendent of Swift & Co., and Schwarzschild & Sulzberger Company, of Chicago. He certainly should be able to speak authoritatively on the subject. This book is published by Nickerson & Collins, of Chicago.

The CHAIRMAN. What is the date of that?

Professor MCKAY. 1905.

On page 140 the grading of fats is given as follows:

No. 1 OIL (NEUTRAL).

Caul fat.
Ruffle fat.
Caul piece of gut end.
Briskets trimmed from the bed pickings.
Crotch trimming from the bed pickings.
Paunch trimmings.
Pluck trimmings.
Reed trimmings.
Heart casing fats.

No. 2 OR SECOND GRADE.

Gut ends—small fat.

Chipped fat, which is taken off of the middle guts.

Machine fat, which is fat taken off of round guts by the fatting machine.

Heart trimmings.

Pluck trimmings.

Miscellaneous bed pickings of the second grade.

Kidney fat.

Clean trimmings from cattle which are being cut up for canning or sausage purposes.

Skimmings from scrap vat of No. 1 oil.

THIRD GRADE.

Head fat.

Fat trimmed from cattle heads when cheeking.

Plucked sweetbreads trimming.

Liver trimmings.

Bladder trimmings.

Fat from chilled beef tongues, when they are trimmed.

Miscellaneous fats from other departments, which is kept clean.

The first washings from the oleo press cloths before soda has been used.

Scrap vat skimmings from the second grade of oil.

On page 461 the formula for and cost of high grade butterine is given as follows:

525 pounds No. 1 oleo oil.

475 pounds No. 1 neutral lard.

30 gallons 30 per cent cream.

300 pounds creamery butter.

Labor and package.

Total cost, \$214.

This formula will yield 1,500 bounds of butterine, therefore cost per pound is \$0.1426.

On page 462 the formula for and cost of good grade butterine is given as follows:

525 pounds No. 1 oleo oil.

475 pounds No. 1 neutral lard.

40 gallons 30 per cent cream.

Labor and package.

Salt and color.

Total cost, \$137.08.

This formula will yield 1,200 pounds of butterine, therefore the cost is \$0.1142 per pound.

On page 462 is also given the formula for and cost of low grade butterine as follows:

350 pounds No. 2 oleo oil.

250 pounds cotton-seed oil.

450 pounds neutral lard.

60 gallons $3\frac{1}{2}$ per cent milk.

Labor and package.

Salt and color.

Total cost, \$94.74.

This formula will yield 1,200 pounds butterine, therefore the cost to produce and pack for shipment will be \$0.0789 per pound.

It will be seen from the formula that cotton-seed oil is not used, as Mr. Jelke has said, in the finer grades of oleomargarine. It is also observed that in the best grades of oleomargarine, butter and cream are used. In the highest priced formula given one-fifth of the product is creamery butter. This creamery butter, with the addition of cream, is used for the purpose of imparting flavor and

color. Fine butter, owing to the high per cent of volatile fatty acids which it contains, as compared with oleomargarine, possesses certain flavors that other fats do not. This gives butter fat a commercial value over other fats.

Doctor Wiley has told us that the ratio of volatile fatty acids in butter as compared with those in oleomargarine is 5 to 1. The fact that butter and cream are used in these products is an indication that the manufacturers realize that the use of butter improves the quality of their product.

If the color line is broken down and oleomargarine is permitted to compete with butter, in a yellow condition, the result undoubtedly will be that dairymen will be forced to take up beef production, and the bulk of our butter will be manufactured in the packing houses, as dairymen can not produce butter in competition with oleomargarine made from the cheap fats that I have mentioned.

This is a serious question to the farming interests of this country, if not to the consuming public. Our lawmakers should do some serious thinking before they put their stamp of approval upon the removal of the color line between butter and oleomargarine.

Personally I had nothing to do with the law of 1902. I feel satisfied, however, that the dairymen who formulated that law were justified in believing that whenever oleomargarine was colored yellow it was done to imitate butter, and that this product could be produced for at least 10 cents per pound cheaper than butter. I have no desire to see any tax imposed on oleomargarine or any other food product produced in this country when put up in its natural condition or natural color—which is white, in the case of oleomargarine—and not appearing in the guise of another product.

The author of the Burleson bill claims that his bill was drawn up in the interests of the cotton producers of the South and the beef producers of this country. I know nothing about the cotton interests, but evidently the beef producers are not united on the removal of this tax.

My home State, Iowa, is one of the great beef-producing States of this country; yet I have not heard any clamor from that State for a removal of the 10-cent tax on colored oleomargarine. The two great agricultural journals, the *Wallace Farmer* and the *Homestead*, published in Des Moines and largely representing the beef interests of that State, have both written special editorials against the removal of the tax. I have a letter from a breeder of beef cattle in which the author states that he has not heard of any action being taken favoring the removal of the tax. Evidently many of the intelligent beef producers realize that if the color line is removed between butter and oleomargarine and dairymen are forced out of business, they will go into beef production, and the result will be that the packers will not only have control of the beef industry, but also of the dairy interests, which will give them the opportunity of fixing their own prices.

Laws passed should not favor any special interests, such as cotton growers, beef producers, or dairymen, but should be on a broader basis and protect the masses of the people and the consuming public as a whole from fraud and deception.

One of the advocates for coloring oleomargarine put forth the plea that it was very humiliating for Willie Lewis to go to school with his bread spread with a white product when Johnnie Jones had his bread

spread with yellow butter. This is a very humane way of looking at it, but some of us have gone to school without having our bread spread with either the white or the yellow product. How many boys have gone to school with patches on their pants, and no doubt the same may have caused some embarrassment. Yet it was not necessary that a law be passed to compel every other boy to wear a patch on his pants. Such a training was beneficial in some ways. Many of those fellows to-day are the leading men of our nation. We can not always be controlled by sentiment. I stand for the line of demarcation—the strong color line between the two products—and I favor the 10-cent tax whenever oleomargarine is colored to imitate butter. When a man goes into a store and asks for butter and has the price to pay for the same, justice and right demand that he get it, and not have oleomargarine palmed off upon him.

We want oleomargarine unmasked, and ask that it travel in its natural shade of color. One of the manufacturers, Mr. Jelke, has told us that the finest grades of oleomargarine are white, or uncolored. Then why color it?

The friends of this product have endeavored to create sentiment in favor of it by calling it "the poor man's butter." Has it come to pass in this highly protected country, where laboring men and mechanics are supposed to receive the highest wages of any country in the world, that they should be compelled to spread on their bread the product of the hog and the steer in place of the butter made from the milk of the cow? If there is any class of people in this country that should have the best food products it is the laboring class.

Mr. Burleson in his opening address eulogized Doctor Wiley as the greatest chemist in the world. The doctor is certainly recognized throughout the world as an authority on food products. What did he say in his evidence before this committee? He said that he did not like oleomargarine, but that he did like butter. This eminent authority no doubt has his reasons for not liking oleomargarine. If such an authority does not like this product, then why should we expect our mechanics and laboring men to accept it in place of butter?

When we consider the increased prices in land and labor we find that butter is produced as cheap, if not cheaper, than any other food product produced on the farm. When corn was worth 20 or 25 cents per bushel and oats 18 to 20 cents per bushel, 25 or 30 cents was considered a fair price for butter. To-day corn is worth 60 to 65 cents per bushel and oats 40 cents. Therefore, it is not surprising that butter should be a few cents higher than the price at which it formerly sold.

What has been the history of oleomargarine since it was first first placed on the market of the world, forty years ago? Fraud and deception in every country where it has been sold; so much so that stringent laws have to be passed regulating its sale. France, the home of this product, tried to cope with it with a moderate law for a number of years, but frauds became so prevalent that in 1907 they passed one of the most stringent laws in Europe, a law that entirely wiped out the coloring. Not only this, but the law prohibits them from selling it in the same room where butter is kept or sold.

Take the adjoining country, Belgium. There we find that they not only prohibit its sale in the same room, but demand separate carriers for conveying oleomargarine from the place of manufacture

to the retailers. These wagons must be branded "Margarine wagon." Establishments where oleomargarine is manufactured or sold must have "Margarine" in large letters in a conspicuous place on their building, so the public can see it. In addition to this, the manufacturer must put it up in its natural color and use 1 per cent of potato starch and 5 per cent of sesame oil. These ingredients are used so that the product can be detected quickly, without chemical analysis.

It is unnecessary for me to dwell further on the various European laws, more than to say that all laws passed lately regulating this traffic appear to be far more stringent than those of former years. The amount of fraud and deception carried on by dealers in this traffic has compelled the various governments to pass those exacting laws so as to protect the consuming public.

Now, these countries all have eminent chemists who understand the nutritive value and the wholesomeness of the product, and no doubt they have given special attention to the study of economics concerning food products. Especially should this be true in densely populated countries like France and Belgium.

We are told by Mr. Wilder in his book *The Modern Packing House*, that 75 per cent of the oleo oils produced in this country are shipped abroad. Is it not reasonable that the packers should want a market for this product at home? If we permit them to color this stuff the shade of butter, how long will it be before the dairy industry of this country will be practically wiped out and the packers will have control of two of our great food products?

Now, this is a very important question to the American people. I want to call your attention for a few minutes to the cheese industry of this country. Twenty-five or thirty years ago the American cheese ranked the highest of any cheese in the world. Experts were sent from this country to England and to Canada to get instruction. What was the result? A few disreputable characters conceived the idea that the cream could be removed and cotton-seed oil and oleomargarine substituted. The result was that we had the same cry that we have at the present time, that it is wholesome and nutritious. The further result was, however, that England turned down our cheese, and our cheese not only got a bad reputation abroad everywhere, but it also got a bad reputation at home. The result will be the same if we turn down the color line on butter products. The people will be suspicious of American butter. The consuming public will be suspicious, and the result will be that the consumption of butter will deteriorate, which will also help to wipe out the dairy business.

The CHAIRMAN. Mr. McKay, I would like to ask you one or two questions which have occurred to me several times during this hearing, and I think, perhaps, you can give a better answer than anyone else who has been before the committee. I believe you have given a good deal of attention to the subject of butter and are something of an expert in butter?

Professor MCKAY. Yes.

The CHAIRMAN. Is the butter which is made in June preferable as a food product, either on account of its nutritive value or of its flavor, or for any other reason, to the butter that is made in December, leaving out of account entirely the color of it?

Professor McKAY. Yes, sir; especially if the month of June is cool. The grass at that time is in its best period.

The CHAIRMAN. So that butter which is packed in June and in its natural color and kept until December would command a higher price on the market than butter which was made in December?

Professor McKAY. Well, that would depend, Mr. Chairman, on some things. The flavor of butter is composed of two things. The volatile fatty acids give what is known as the butter flavor to butter. There is another flavor, sometimes described as a cheesy flavor, which is due to certain species of bacteria—the lactic acid bacteria. In the winter months, in the earlier or forerunner winter months, some makers are able to produce a very high grade of butter, when the farmer takes particular care of his milk. But another reason why butter sells so high in June, or why people prefer it, is because the bulk of our butter is made from about the middle of May to the latter part of June. That is about the time of year when the people fill their storage, and the butter is supposed to be at its best if the climatic conditions are right.

The CHAIRMAN. But, generally speaking, and measured wholly by the attractiveness of the product, June butter packed and held until January would command a better price than uncolored butter made in the month of January?

Professor McKAY. Yes, sir. The scores made in butter will average much higher in June. The conditions are all favorable to the making of the highest grade of butter at that time. The cows are not stabled then.

The CHAIRMAN. Then the butter maker who manufactures in January and who gives his butter a June color does it in the hope of being able to get a June price for it?

Professor McKAY. No, sir; I think not. They do not get a June price. All butter is sold on the score. All butter is not sold in the markets at a uniform price. There may be a variation of 3 or 4 cents a pound even in adjoining factories. It depends on the skill of the maker. The butter is scored according to quality, and the price is fixed by the quality. Some markets demand a very light shade, as New York, for example. This market here in Washington demands a deep red shade. I have scored butter many times when the tub would be marked a deep red shade for the Washington market.

The CHAIRMAN. Taking the average market and the ordinary consumer, when he buys yellow butter does he buy it under the impression that it was made in June?

Professor McKAY. Oh, no.

The CHAIRMAN. Was there ever a time when he did that?

Professor McKAY. Fresh arrivals of goods will outsell storage goods.

The CHAIRMAN. Of course you see what I am driving at?

Professor McKAY. Yes.

The CHAIRMAN. It has been charged that the dairy people could not come with very clean hands attacking the oleomargarine manufacturers for coloring their product, for the reason, as was alleged, that the dairy people themselves gave their product as it was manufactured in winter an unnatural color in order to give it the appearance of butter that had been made in June, which for that reason was preferable, as you stated. I wanted to get your opinion.

Professor MCKAY. No. Personally, I would just as soon eat white butter, or light butter, as the highly colored butter. The principal thing about butter that attracts my attention is the flavor and smell and aroma in the butter.

The CHAIRMAN. We all, of course, have our personal likes and dislikes. I was trying to get at your opinion as to whether the practice of coloring winter butter was carried on primarily for the purpose of deceiving the customer into the belief that he was buying June butter.

Professor MCKAY. No; I think not. That would be my honest opinion.

The CHAIRMAN. There would not be any attempt at deception in that way?

Professor MCKAY. No, sir.

The CHAIRMAN. Then why do they color it?

Professor MCKAY. That is colored because the trade prefers it so. You might ask why we ship dark-colored butter into this market here in Washington. The trade here demands it. On the other hand, New York often complains of the high color of the butter in the summer months. They object to it as being too high. Across the water, in England, they demand a very light butter, almost white, practically without any salt. That is a matter of taste with them.

Mr. McLAUGHLIN. Does any of this coloring matter that is put into butter change in any respect its quality?

Professor MCKAY. I think not. That is, you mean it bleaches and gets white?

Mr. McLAUGHLIN. No. Does it in any way change the quality of the butter?

Professor MCKAY. No, sir. It is a harmless product. The aniline dyes would be poisonous if you used a great quantity of them, but the small quantity used in butter would not affect anybody.

Mr. McLAUGHLIN. Can you give an intelligent estimate of the proportion of oleomargarine that is sold actually for what it is?

Professor MCKAY. Why, it would be guesswork on my part. I am told, and I have looked into the matter a little bit, that pretty nearly 50 per cent of the oleomargarine that is sold in Chicago is sold for butter. I called at the board of health there some months ago, and in talking with Doctor Taylor about butter analyses and the city laws he told me that they sent out and bought twenty-odd samples of butter for chemical analysis, not with a view to finding oleomargarine or anything of that kind, but for analysis as butter, and that two-thirds of those samples turned out to be oleomargarine.

Mr. McLAUGHLIN. What I was trying to find out is the proportion of people who buy oleomargarine because they want oleomargarine and buy it knowing what it is.

Professor MCKAY. Yes; a great many people buy it knowing what it is.

Mr. McLAUGHLIN. Do many people buy it for their own use, knowing it to be oleomargarine?

Professor MCKAY. Certainly.

Mr. McLAUGHLIN. Do you think there would be very many who would buy oleomargarine in preference to butter if the price was the same for the two?

Professor MCKAY. Certainly not. They buy it because it is the cheaper product. I do not go on the theory of proclaiming that.

oleomargarine is rotten, or anything of that kind. It is in its way a wholesome food product.

Mr. McLAUGHLIN. You think everyone would prefer butter if he could get butter at the same price or nearly the same price as he pays for oleomargarine?

Professor McKAY. I would naturally suppose so. I am not in a position to state authoritatively.

Mr. McLAUGHLIN. There is testimony here to the effect that different kinds of oleomargarine sell for different prices. What causes oleomargarine to sell at higher prices, some kinds higher than others?

Professor McKAY. I would naturally suppose that the higher-priced oleomargarine, which this book has shown—I would naturally suppose that the high price is due to the amount of butter they use in its composition. One formula gives one-fifth of butter. The butter removes the lard flavor. In common oleomargarine the objectionable flavor to me is the pronounced lard or oily flavor.

Mr. McLAUGHLIN. Does the oleomargarine get the higher price as it more nearly approaches the appearance of butter and is better calculated to deceive the purchaser? Is that true?

Professor McKAY. That is true.

Mr. McLAUGHLIN. Then the greater the deception the higher the price and the less benefit the purchasers get from it? Is that true?

Professor McKAY. Yes, sir. Let me explain as to that. Judge Hainer and I went into a shop downtown and asked a dealer for two grades of oleomargarine of the same quality, identically the same. One was white and the other was colored. The dealer said the one sold for 28 cents and the other for 18 cents, and the difference, he said, was the 10-cent tax.

Mr. McLAUGHLIN. An appeal is made here on behalf of the poor people that they are entitled to and ought to have the right to purchase oleomargarine because the price of butter is so high. You answered the other question that the greater the deception the higher the price?

Professor McKAY. The higher the price; certainly.

Mr. McLAUGHLIN. Are improvements being made—if we can call them improvements—by which oleomargarine is made more nearly year after year to resemble butter?

Professor McKAY. Well, the improvements principally are the differences in the color and in the use of butter.

Mr. McLAUGHLIN. And is it your opinion that where it is practically impossible for a purchaser to detect the difference between them there is very little difference between the price of oleomargarine and of butter?

Professor McKAY. Yes, sir.

Mr. McLAUGHLIN. And do you think that if the purchaser was unable altogether to detect the difference there would be any difference in price?

Professor McKAY. Why, if the merchant sold it for butter, which is quite a common practice, then of course the two products would sell at the same price, and naturally, owing to the cheapness of this product, it would crowd the other out of the market, and, as I stated in my talk, it would force the dairymen into the beef business, and the result would be that the product would naturally be manufactured in the future in the packing houses of this country.

Mr. McLAUGHLIN. Are improvements being made continually in the coloring of oleomargarine, enabling the makers of oleomargarine to deceive the purchasers of it? Do you think the difference in price between oleomargarine and butter will continue?

Professor McKAY. Well, that comes back to that same question of whether they sell it for butter or not. Of course the color always adds value to the product, and it is my firm belief that you will never separate these two products until you make a distinct color line and have each product use a natural shade of color. You can pass all the laws you like, and yet I am firmly convinced that you can never separate the two products, because you can not make men good by passing laws.

The CHAIRMAN. The pure-food commissioner for the State of Kansas was here the other day and said to me that there was a great deal of sentiment in that State favoring a law forbidding the coloring of butter. Suppose that law should be passed. There would be times, would there not, when it would be practically impossible to distinguish oleomargarine from butter—I mean uncolored oleomargarine from uncolored butter—would there not?

Professor McKAY. In the winter months it would be impossible, unless a law of that kind would suddenly boom the price of Guernsey cattle. It would stimulate that breed of cattle wonderfully, because they will produce yellow butter in the winter months on dry feed.

The CHAIRMAN. But of course it could not be expected that the bulk of the butter in any one State could be made from Guernsey cattle?

Professor McKAY. No; that would be impossible.

The CHAIRMAN. And therefore if a State should take it into its mind to forbid the coloring of butter, there would be a time when the color line, if both products were forced upon the market without color, would not be effective in distinguishing the one product from the other?

Professor McKAY. Yes, sir; and——

The CHAIRMAN. That is one of the reasons why I am doubtful about the efficacy of the color line.

Professor McKAY. Yes, sir.

The CHAIRMAN. To what extent, in your judgment, has the sale of oleomargarine reduced or held down the price of butter?

Professor McKAY. Well, that would be largely guesswork on my part. When butter assumes a very high price, which I would say would be 40 cents a pound, the public as a rule do not eat as much butter then, and I do not think it would affect the price of butter very much. The public would naturally draw back and decrease the consumption of butter at such times.

The CHAIRMAN. I was talking with an Elgin man the other day who said if it were not for the competition of oleomargarine, butter would be \$3 a pound. [Laughter.]

Professor McKAY. I think he is mistaken. I traveled through the European countries for the United States Government nine years ago, looking up the dairy business and particularly the cheese interest, and I might say that practically in all the European countries through which I traveled they have their various laws with respect to the shade and color of oleomargarine. Some want white, as in Belgium and France. In many of those places the products are sold in sepa-

rate stores, even when there is a shade of color, and it seems to work very satisfactorily in those countries that I visited.

Mr. McDERMOTT. What is the name of that book, just for the information of the committee?

Professor McKAY. It is *The Modern Packing House*, by F. W. Wilder.

Mr. McDERMOTT. By F. W. Wilder himself?

Professor McKAY. Yes.

Mr. McDERMOTT. I knew him very well.

Mr. CURRIER. Just on that point of color, as applied to butter and oleomargarine, particularly as to butter, you are familiar, I suppose, with the quality and the kinds of butter colorings that are sold and distributed throughout the country to the butter makers?

Professor McKAY. Quite familiar; yes.

Mr. CURRIER. Now, take those butter colors, the vegetable butter colors; take Wells & Richardson's, for instance——

Professor McKAY. Yes.

Mr. CURRIER. Does not the color that is sent, in whatever form it may be, bottles and other containers that are sent to the butter makers—do they not have it sent with a pamphlet and even a label on the bottles showing and describing to the butter maker how to use this color to make the butter the color of June butter?

Professor McKAY. I do not know, I am sure. I never read the label that close, to give you a positive answer to that.

Mr. CURRIER. I can say that Wells & Richardson's butter color always has that label. I have some of them in my possession.

Professor McKAY. That would be natural. June is the month when the yellow butter is made. Some prefer a lighter color, as I said, over the June shade; but I am not responsible for their advertisement or what they put out.

Mr. CURRIER. Is it not a fact that they inform the butter maker how to make this the color of June butter in order that he may sell it for June butter?

Professor McKAY. They could not do that. It would be impossible for them to state how much color the butter makers should use. That would depend entirely on the feed consumed by the cows, and in one factory they would probably have to use a fourth more than another factory. It comes down to the particular butter maker and the market he is selling to. Down here in Washington he would want to use a much deeper shade of yellow.

Mr. CURRIER. That brings us back to the chairman's question, Why do they want to color their butter the shade of June butter?

Professor McKAY. They do not all color it the shade of June butter. A creamery that will ship to New York may prefer a light color, and another may ship to Chicago and another to Boston, and they have to cater to the particular tastes of the respective localities.

Mr. CURRIER. Then butter has not, as you claimed, a trade mark on a particular shade of yellow?

Professor McKAY. In June they do not color butter at all. I should say June would be the fair trade mark.

Mr. CURRIER. You have already stated you would color it different shades of yellow?

Professor McKAY. I beg your pardon, I did not. I said the makers color to suit the market, the different shades of yellow, but they do not color in June. That is the natural color.

The CHAIRMAN. Would you be able to say whether there has been a trend in the last few years in the direction of uncolored butter or a lighter shade of butter? You mentioned the fact that the New York market preferred its butter uncolored.

Professor MCKAY. Very light; yes.

The CHAIRMAN. I wondered whether there was a broad tendency of that kind.

Professor MCKAY. Well, I think that a lighter shade than formerly is preferred. A great deal of coloring material used to be used during the summer months years ago, and now the complaint is that the butter with its natural color is in some cases a little high.

Mr. HAUGEN. Much has been stated about the high price of butter, especially in the last year. Can you give an estimate of the profits of manufacturing butter? Is it not a fact that with the present high price of feed and labor the profit is less to the dairyman than it has been in years past?

Professor MCKAY. Yes; that is true.

Mr. HAUGEN. Now the sale of oleomargarine unrestrained by law would force the price of butter down to that of oleomargarine?

Professor MCKAY. If unrestrained, oleomargarine would be sold, I believe, as butter, and it would naturally drive the dairyman out of business because the dairyman will not continue to milk cows when there is no profit in it.

Mr. HAUGEN. It would either force the dairyman out of business or force the price of butter down to that of oleomargarine?

Professor MCKAY. Yes, sir.

Mr. HAUGEN. You have no objection to oleomargarine in its natural color?

Professor MCKAY. No. It is white to the naked eye, but under the microscope it would be a slight shade.

Mr. HAUGEN. Would it not be fair to assume that if you allowed the oleomargarine people to manufacture their product in the natural color you would allow the dairy people to produce their butter in the natural color?

Professor MCKAY. No, sir; I have no objection to that.

Mr. FERDINAND JELKE, Jr. You have referred to foreign laws and spoken of the severe penalties that are attached to selling oleomargarine for butter?

Professor MCKAY. Yes.

Mr. FERDINAND JELKE, Jr. Have you heard any suggestion at any of these hearings that any penalties in this country should be reduced?

Professor MCKAY. Have I heard that the penalties should be reduced?

Mr. FERDINAND JELKE, Jr. Have you heard the suggestion in any of these hearings that any of the penalties for doing that thing in this country should be reduced?

Professor MCKAY. Why, no.

Mr. HAUGEN. The Burleson bill provides that.

Mr. FERDINAND JELKE, Jr. Are you familiar with the difference between a penalty and a tax?

Professor MCKAY. The tax is so much on the pound. The penalty would be for violating the law. I would be inclined to accept the French law very readily.

Mr. FERDINAND JELKE, Jr. Now, if a French restaurant keeper or hotel keeper goes to one of these exclusively margarine stores, what is there about the separate place where he purchases it that would prevent his serving it upon the table for butter?

Professor McKAY. He could serve it on the table, but if that store sold it to him in the colored form, the dealer could be made to suffer the penalty of the law—fine and imprisonment.

Mr. FERDINAND JELKE, Jr. Exactly. What I am coming to is this: Why would not the identified package suggested by the Burleson bill accomplish the same thing?

Professor McKAY. For the simple reason that you can not pass any law that would make men moral and upright. I believe that a disreputable character would ship the packages of oleomargarine of the same size as butter and use the butter wrappers.

Mr. FERDINAND JELKE, Jr. He would be a criminal?

Professor McKAY. Yes, sir. Every man who violates the law now is a criminal.

Mr. FERDINAND JELKE, Jr. And subject to a penalty?

Professor McKAY. Yes, sir.

Mr. BEALL. I believe you stated a while ago that you conceded that oleomargarine was a wholesome product?

Professor McKAY. I certainly did, but not as wholesome as butter.

Mr. BEALL. You make a distinction between the wholesomeness of the two products?

Professor McKAY. Yes, sir.

Mr. BEALL. The coloring matter that goes into butter, you say, is harmless?

Professor McKAY. Perfectly harmless.

Mr. BEALL. Where oleomargarine is colored, the same coloring matter is used, is it not?

Professor McKAY. Yes.

Mr. BEALL. Therefore it is perfectly harmless?

Professor McKAY. Yes, just the same as in butter.

Mr. BEALL. You said that the butter sold in different cities was of a different color because the trade of the different cities required different colors?

Professor McKAY. Yes.

Mr. BEALL. Why is it that the trade requires different colors?

Professor McKAY. It is a matter of education, largely.

Mr. BEALL. It is a question of the taste of the consumer very largely; habit, or taste, or custom, or whatever it is.

Professor McKAY. It may be the habit or the taste, but it is a fact that they color butter at other seasons of the year, but at this time of the year all cities have got to take butter alike.

Mr. BEALL. In June they do not put any artificial coloring in?

Professor McKAY. No; and in several other months.

Mr. BEALL. In other parts of the year they do put coloring into butter?

Professor McKAY. Very little. If you churned butter about seven months in the year in its natural shade, you would have a yellow butter. There are about two months in the winter time when the cows are dry, and consequently the bulk of our butter is made when we could dispense with color.

Mr. BEALL. They are making butter during all months of the year, are they not?

Professor MCKAY. They are making butter during all the months, but not very much butter during two of the winter months.

Mr. BEALL. The butter, then, that is made during about five months in the year does not have naturally the deep color of June butter, and during those months they add coloring matter. Now why do they do that?

Professor MCKAY. They add the coloring matter to keep their butter uniform, because a man likes to get his butter the same color all the year around. Now, if it were possible to have light butter all the year round, the trade would soon realize that, and we would have the light butter.

Mr. BEALL. But the trade wants the yellow butter in the winter months as a matter of taste or a habit that has been acquired of taking yellow butter. Now, take the man that eats oleomargarine. Would you object to a law being so framed that a man who wants oleomargarine and wants it yellow, because his taste has been cultivated to eating a yellow product, can have it? Would you be willing for him to have it?

Professor MCKAY. I certainly would object, because whenever you put that yellow coloring matter in, the temptation is so great to pass it off for the real article. You can polish a nickel with gold, and sometimes it will pass for \$5; but still it is a fraud. It has not the real value. And in the same way you can not make butter out of oleomargarine.

Mr. BEALL. Would you not be willing for a man who wanted it yellow to have the right to go to the store and call for yellow oleomargarine and get yellow oleomargarine?

Professor MCKAY. I certainly would object.

Mr. BEALL. You certainly would object?

Professor MCKAY. Yes, sir; I certainly would object. I stand for the straight color, because yellow is not the color of oleomargarine, and when it is colored it is done to increase its value.

Mr. BEALL. But yellow is not the color of winter butter.

Professor MCKAY. Not of all winter butter, but some grades of cattle produce yellow butter all the year round.

Mr. BEALL. Some grades of oil produce yellow oleomargarine.

Professor MCKAY. Not much.

Mr. BEALL. Would you be willing to have those grades of oleomargarine manufactured yellow with the use of those oils?

Professor MCKAY. I am willing to use fats, not other ingredients.

Mr. BEALL. Are you willing to use cottonseed oil?

Professor MCKAY. Yes; I am willing to use cottonseed oil.

Mr. BEALL. That will make a yellow oleomargarine.

Professor MCKAY. Yes, but it hurts its quality.

Mr. BEALL. Are you willing for the manufacturer to make yellow oleomargarine if he does not put artificial coloring into it?

Professor MCKAY. I am willing for him to make it in its natural color.

Mr. BEALL. You would not want him to make any oleomargarine that contained cotton-seed oil, because that would make some degree of yellow, and you would not want him to make oleomargarine out of any fat, even in certain seasons of the year where he could select certain fats that would give his product a yellow color? You would not want him to make it out of that?

Professor McKAY. One of the manufacturers says the natural color is white.

Mr. BEALL. Have you heard that by the selection of products they can make it a yellow tint without any artificial coloring? Are you willing to do that?

Professor McKAY. I am not willing to color it in any shade of yellow.

Mr. BEALL. You want it to be white?

Professor McKAY. There is a line of distinction that must be made there.

Mr. BEALL. Why do you want it white?

Professor McKAY. Because white is the natural shade, and when it is colored otherwise it is not in the natural color.

Mr. BEALL. In whose interest don't you want it colored yellow?

Professor McKAY. In the interest of justice and right and honest dealing.

Mr. BEALL. There are about 90,000,000 people in this country, and of those 90,000,000 people in whose interest is it that you want it made white and white only?

Professor McKAY. I want it made white in the interest of the public as a whole, so that when they go into a store and ask for butter they will not have oleomargarine palmed off on them.

Mr. BEALL. Are you here in the interest of the public as a whole?

Professor McKAY. I am here to represent justice.

Mr. BEALL. Who commissioned you to represent justice?

Professor McKAY. I commissioned myself. I represent 400,000 farmers.

Mr. BEALL. What is your position in Minnesota?

Professor McKAY. I am not in Minnesota.

Mr. BEALL. What position have you in the State you are from?

Professor McKAY. I am secretary of the American Association of Creamery Butter Manufacturers.

Mr. BEALL. Is that your conception of the figure of justice—the 400,000 creamery butter manufacturers of the United States?

Professor McKAY. Certainly; that is part of the conception.

Mr. BEALL. Is it not a fact that you are here in their interest as their representative?

Professor McKAY. I am here as a representative of the creamery men, and I represent justice. If you can suggest any plan whereby you can put your oleomargarine product up in its natural shade of color, without any tax or anything, I am willing to agree to that. But the moment you color your product the same shade as mine, then I object.

Mr. BEALL. Then you are the representative of the creamery interests, the 400,000 farmers who are interested in creameries?

Professor McKAY. Yes.

Mr. BEALL. If the sale of oleomargarine could be reduced, the demand for butter would be increased, would it not?

Professor McKAY. Why, it might, and then it might not.

Mr. BEALL. It would be to the interest of the 400,000 farmers interested in creameries to have that demand increase, would it not?

Professor McKAY. It would be to their interest, you say, to have it increase?

Mr. BEALL. Yes; to have the demand for butter increase.

Professor MCKAY. To a certain extent it would.

Mr. BEALL. Of course when that demand is increased the price of butter is increased. Is not that true? Does not that follow?

Professor MCKAY. The law of supply and demand does that.

Mr. BEALL. The law of supply and demand regulates the price, and if you increase the demand for butter that increases the price?

Professor MCKAY. It does until you get to a certain point, and after that the public ceases to consume.

Mr. BEALL. The public will either have to pay an increased price or do without. Is not that it? I believe you admitted that when butter got as high as 40 cents a pound the consumption of butter decreased; that some people ceased to use butter to the extent they did before?

Professor MCKAY. They do not use it as much for cooking purposes as before.

Mr. BEALL. When it went to 40 cents?

Professor MCKAY. That is retail.

Mr. BEALL. More than 100,000,000 pounds of oleomargarine were manufactured last year, and even with that quantity of oleomargarine manufactured, butter went beyond the reach of thousands and thousands of homes in this country, did it not?

Professor MCKAY. Will you explain to me why oleomargarine increased so much this year?

Mr. BEALL. I suppose because of the fact that the price of butter went so high.

Professor MCKAY. It is due to the fact that you have been using ingredients for that product that make its color as high as that of June butter, and it is sold fraudulently.

Mr. BEALL. If it had not been for that, don't you think butter would have gone above 40 cents?

Professor MCKAY. I do not think so. The people would have eaten less of it.

Mr. BEALL. Then, to keep oleomargarine out of the market you are willing that the people of this country should eat less butter because the price would go beyond the reach of a great number of people?

Professor MCKAY. Repeat the question, please.

Mr. BEALL. In order to keep oleomargarine out of the market and reduce the consumption of that, you are willing for an increased number of people of this country to do without butter on their tables?

Professor MCKAY. In order to keep oleomargarine out?

Mr. BEALL. Yes.

Professor MCKAY. I do not agree with you. I do not believe oleomargarine will be kept out. I believe personally and honestly that if the oleomargarine people and manufacturers, instead of chasing rainbows in color, had put their product on the market in its natural form, they would have a large business, and we would have oleomargarine sold for what it is worth.

Mr. BEALL. You are not unfriendly to oleomargarine?

Professor MCKAY. Not when it is sold for what it really is.

Mr. BEALL. In that article that you read you became the spokesman for the laboring people of this country. Have you any commission from them to represent their sentiments here on this question?

Professor MCKAY. Not necessarily. I did not say I was commissioned for them. I said if it comes to this question that people in a

highly protected country like this, where the mechanics and laboring men are supposed to receive the highest pay in the world have to get down and eat the intestinal fat of the hog and the steer, it would be a lamentable condition.

Mr. BEALL. You conceded that it was a wholesome product.

Professor MCKAY. A great many things may be wholesome that people do not like.

Mr. BEALL. Is there any difference in creamery butter? Is it all of the grade of June butter, a high grade of butter?

Professor MCKAY. There is a difference in creamery butter in quality.

Mr. BEALL. I notice in this Producers' Price Current about ten different grades of creamery butter. Is there any fraud perpetrated upon the consumers in the sale of creamery butter?

Professor MCKAY. I could not answer that question.

Mr. BEALL. The ordinary purchaser of creamery butter, I mean?

Professor MCKAY. It is all butter. It is all wholesome. The difference in quality would be in the flavor.

Mr. BEALL. The man that goes into the store and asks for creamery butter, is he in a position to tell the difference between creamery butter that costs 24 cents a pound and the creamery butter that costs 32 cents a pound?

Professor MCKAY. I think so. I do not think any intelligent man would attempt to put a grade of so much difference on his customers for the same price. He would soon run himself out of business.

Mr. BEALL. I understand that one of the burdens of your complaint is that in some places the retailer will palm off on an unsuspecting customer oleomargarine for creamery butter?

Professor MCKAY. That is for the reason that you bring your product up so close to butter by the use of cream and butter and cheap fat that you are able to sell your stuff to the consuming public as butter, and that is a fraud.

Mr. BEALL. Does that product resemble as nearly the high grade of creamery butter, the 32-cent kind, as the 24-cent kind does?

Professor MCKAY. It certainly does.

Mr. BEALL. Has the low grade of creamery butter the same high color as the high grade?

Professor MCKAY. It may have the color, but it does not have the flavor, and you are approaching the flavor with neutral fats and cream.

Mr. BEALL. The ordinary consumer does not get a chance to taste the flavor until after he has bought it, does he?

Professor MCKAY. Why, no.

Mr. BEALL. Not until after the fraud has been practiced upon him?

Professor MCKAY. I do not understand the drift of your argument. I do not see where that comes in.

Mr. BEALL. What chance has the consumer to know of the flavor before he buys it?

Professor MCKAY. He has no chance.

Mr. BEALL. It is all wrapped alike, is it not?

Professor MCKAY. It is all wrapped about the same.

Mr. BEALL. There is nothing on the wrapper to indicate to the ordinary consumer what the quality is?

Professor MCKAY. That is why we are clamoring for a color line, so that the consumer would be protected.

Mr. BEALL. I am talking about the different grades of creamery butter, where there is a difference of 8 cents a pound in the price. I am asking you if the unscrupulous dealer can not palm off on the innocent purchaser the 24-cent brand instead of the 32-cent brand.

Professor MCKAY. The intelligent dealer would not attempt that, because the difference in flavor is manifestly so great that he would lose his trade.

Mr. BEALL. Is there any more danger in his detection in that case than if he would palm off oleomargarine for butter?

Professor MCKAY. Yes. Any butter that sells 8 cents a pound less than the other is a very inferior, rancid grade of butter.

Mr. BEALL. You do have inferior, rancid grades of creamery butter?

Professor MCKAY. Any kind of butter will get rancid if it is kept too long. That will happen with butter that is kept on the farm.

Mr. BEALL. That does not go into the creamery butter?

Professor MCKAY. No, sir.

Mr. BEALL. I understand that all creamery butter is not first-class butter.

Professor MCKAY. It is graded.

Mr. BEALL. Are there any impurities in creamery butter?

Professor MCKAY. No, sir.

Mr. BEALL. Is there anything connected with the conditions under which creamery butter is made that would permit impurities to enter into it?

Professor MCKAY. Nothing that I know of.

Mr. BEALL. You take the farmer that separates his own cream and sends it to the creamery. How long does he keep that cream before it is sent into the creamery?

Professor MCKAY. In the summer months he usually sends that cream every other day to the creamery; sometimes twice a week.

Mr. BEALL. Sometimes less than that?

Professor MCKAY. Not very often.

Mr. BEALL. Do you know anything about the conditions under which that cream is kept during the three or four days it is on the farm?

Professor MCKAY. That can hardly be detected by the flavor. Now, I believe you are from Chicago—

Mr. BEALL. No, sir; I am not from Chicago; I am from Texas. This gentleman [indicating Mr. McDermott] is from Chicago.

Professor MCKAY. Well, you have in Chicago, there, two large creameries, and the farmers ship in cream to them, and every can is inspected. That cream after being inspected is pasteurized, heated to 180°, so as to destroy the germs. Then the butter is made under the most perfect sanitary conditions. If a can of cream comes in there in an improper condition the inspector knows it, and he writes a personal letter to that fellow who sent it, and either returns it home to him or calls attention to the quality of the cream he has sent.

Mr. BEALL. That is in Chicago. Do you know whether any system like that prevails elsewhere?

Professor MCKAY. I think that system prevails pretty generally all over the country.

Mr. BEALL. Is there any law requiring any particular kind of inspection for these creameries?

Professor MCKAY. There is no general law.

Mr. BEALL. Are you willing for the products of the creamery to be put under the pure-food law of the United States?

Professor MCKAY. For a general government inspection?

Mr. BEALL. Yes; everything that goes into interstate commerce.

Professor MCKAY. Yes; I heartily approve that.

Mr. BEALL. You think that would benefit conditions?

Professor MCKAY. I do not know whether it would benefit conditions or not, but I am willing to put it there. I doubt whether it would benefit conditions at all, because the greatest care is exercised in the manufacture of butter at the present time. Scientists are working all over the country; instruction is given in the various States in the art of butter making, and I doubt whether inspection would improve the quality very much. But when you ask me if I am willing for such inspection, I will say yes.

Mr. BEALL. Do you think the dairy interests would be willing to have it?

Professor MCKAY. I think they would be quite willing to have it.

Mr. BEALL. Don't you think it would be beneficial to the dairy interests, in view of the widespread suspicion that is now in the land that dairy products are contaminated with tuberculosis bacilli?

Professor MCKAY. Why, I do not think there is a case on record. I do not think you can cite me a case where a human being has got tuberculosis from eating butter. It is not admitted that the bovine tuberculosis bacillus is transmissible to the human, and many creameries pasteurize their cream, which would eliminate that, even if it did exist.

Mr. BEALL. Have you read Doctor Schroeder's testimony?

Professor MCKAY. No, sir; I have not.

Mr. BEALL. I understand you do not agree with the conclusions he has reached, that it is possible for a human being to be inoculated with the bovine bacilli?

Professor MCKAY. Has he cited any cases that have occurred?

Mr. BEALL. I think so. I think that was his statement before the committee.

Professor MCKAY. I notice Doctor Russell takes the same views I have quoted here.

Mr. BEALL. Who is Doctor Russell?

Professor MCKAY. He is the dean of the Michigan State University, at Lansing. He is one of the greatest bacteriologists in this country.

Mr. BEALL. What law have you in regard to the sale of oleomargarine in Iowa?

Professor MCKAY. Iowa has a law prohibiting the sale of it in any shape.

Mr. BEALL. How is the law operating in that State?

Professor MCKAY. The law is operating very well, from the fact that we have a very careful dairy commissioner there.

Mr. BEALL. Then, so far as Iowa is concerned, there is no special amount of fraud that is being perpetrated upon the people of that State from the sale of colored oleomargarine for butter?

Professor MCKAY. I do not know to just what extent. I should say that there would not be as much as in other States that do not enforce the law. But we have not reached the millennium yet, and I do not think the people of Iowa are perfect yet.

Mr. BEALL. You will not reach the millennium yet, even if you pass this proposed law.

Professor McKAY. We will not reach it right away.

Mr. BEALL. I understand you have a color law in Iowa and that it is reasonably well enforced and that so far as you know there is not much fraud being perpetrated upon the public by the sale of oleomargarine for butter?

Professor McKAY. I would answer that question in a general way. I could not say positively that there is not much fraud, but from my own experience I would say that there was not very much. There is some, however. There are cases constantly coming up, and there are cases that constantly pass the dairy commissioner. I think he would have a far easier time if we had a national law.

Mr. BEALL. You have a national law.

Professor McKAY. Yes, but it was framed evidently in the interests of the oleomargarine business.

The CHAIRMAN. You would hardly make that statement seriously, would you?

Professor McKAY. There is a joker in there that fixes the whole thing. It was a compromise.

Mr. BEALL. As a matter of fact, is not every particle of oleomargarine legislation on the federal statute books to-day put there by the dairy interests of this country; put there in 1886 at the first, when the dairy interests came here demanding legislation, and every amendment that has been put there since has been put there at the insistence of the butter interests of this country?

Professor McKAY. It is true that the dairy interests have demanded a fair hearing and have demanded legislation to protect their interests from fraud, and they will continue to demand legislation until they get it.

Mr. LEVER. Let us get back to that question. You say that the present oleomargarine law was written in the interests of the oleomargarine people. Do you mean to make that statement deliberately.

Professor McKAY. The joker that was put in there, or the amendment, by Senator Foraker, as I understand it; that term "artificial coloration" was one of the principal things that rendered that law ineffective, in my judgment. It was supposed to be written in the interests of the dairy industry, and after the law went into effect first the sale of oleomargarine decreased and continued to decrease until such time as they found out they could use ingredients.

Mr. LEVER. But you do not want to make the broad statement to this committee and have it go out to the country that this great National Congress here has slipped a joker into a great federal statute in the interests of any one industry, do you? Let us get your position on that.

Professor McKAY. That is generally understood, I believe.

Mr. LEVER. All right.

The CHAIRMAN. What is your understanding of the term "joker," Mr. McKAY, as applied to a legislative measure?

Professor McKAY. My understanding is that it is something that does not mean anything, or puts a condition in there where it can be slipped over and passed up and permits the use of something else.

The CHAIRMAN. That is rather vague. [Laughter.] But I would like to get that term "joker" a little more clearly defined, because it

has been used here a number of times. If my understanding of it is correct, it has not been used properly. My understanding of the term "joker" as applied to legislation is an apparently innocent clause or word slipped surreptitiously into a measure with the expectation that it will put a very different interpretation upon that measure from that which appears on the surface and which the proponents of the measure have understood. Would you consider that a fair definition of the term "joker?"

Professor MCKAY. I think probably, Mr. Chairman, you are in a better position to define that term than I. I am not a legislator, but the term has been used so frequently here in the hearing that I just repeated the term.

The CHAIRMAN. I think my definition, while extemporaneous and perhaps not scientifically accurate, would not be very much disputed. Now if my definition is anywhere near correct, and if my understanding of the way in which the term "artificial coloring" came into this bill is correct, then that provision is not a "joker." My understanding is—and I would like Mr. Flanders to correct me if I am wrong, because it is a reflection upon the Congress of the United States to have it charged that it deliberately inserted a "joker" in legislation—my understanding is that the dairy interests protested against the insertion of the words "artificial coloring;" that they understood fully what it would mean if they were inserted; that they suggested the ingenuity of the oleomargarine manufacturers might be such as would enable them to devise some recipe that would result in making their product yellow without resorting to artificial coloring, and therefore they contended that the intent of the law would thereby be defeated. Is not that true, Mr. Flanders?

Mr. FLANDERS. Yes, sir.

The CHAIRMAN. That being so, the meaning of this term "artificial coloring" being understood at the time, the proponents of the Grout bill protesting against it, and declaring there was danger that it might defeat the intent of the law, it is clear that it was not a "joker," but that it was inserted as a matter of compromise; and to put that language into a measure as a matter of compromise is quite a different proposition from inserting it as a "joker." Is not that your understanding, Mr. Flanders?

Mr. FLANDERS. Yes, sir. And I want to make this point, that that expression was used by witnesses on the other side first, and not by ours.

The CHAIRMAN. I was not criticising the present witness. I understand he practically put quotation marks around the word when he used it, saying that it was used by other witnesses before. But the term has been used here several times, and I thought it might be a good thing to have an understanding upon it.

Mr. FLANDERS. I want to say this, that that clause has accomplished all I thought it would. It has resulted in keeping artificial coloring out. It has done what I contended it would do; it has resulted in producing a product without artificial coloration.

Mr. LEVER. I understand that from the trade journal here eight or ten different grades of creamery butter are sold on the market. Do they all look alike in color?

Professor MCKAY. I beg to differ from the gentleman. I think they are graded down.

Mr. BEALL. Creamery specials, creamery extras, creamery firsts, creamery seconds, creamery thirds; creamery held specials, creamery held extras, creamery held firsts, creamery held seconds, and creamery held thirds.

Mr. LEVER. Is that correct? Do you know whether that is correct?

Mr. BEALL. The difference is that between 32 cents and 24 cents a pound.

Professor MCKAY. I do not come in contact with that low-grade butter very much.

Mr. LEVER. I understand your position to be that you think you can not accomplish the prevention of the fraud that you claim oleomargarine perpetrates upon the public except by the establishment of a color line. Now, there is a range from 6 to 8 cents difference in the butters quoted there in this produce journal. Would you be willing to establish a standard for the different grades of creamery butter corresponding to the different grades of prices quoted there?

Professor MCKAY. I would not; no, sir.

Mr. LEVER. Why not?

Professor MCKAY. Because that is all pure butter; all of it.

Mr. LEVER. Now, then, why do you color it alike? Why do you color the butter that sells for 24 cents just like the butter that sells for 32 cents a pound?

Professor MCKAY. The chances are that some of that butter has not had any coloring matter put into it. It is naturally alike. We can not remove the color from butter.

Mr. LEVER. If it is not naturally alike, you do color it alike?

Professor MCKAY. That is true.

Mr. LEVER. Why do you do that?

Professor MCKAY. Because the market demands a uniform shade.

Mr. LEVER. Why is it not just as right for us to establish a distinction between a high grade of oleomargarine and creamery butter by establishing a standard to make that difference as it is for you to establish a standard of color to make the distinction between oleomargarine and margarine?

Professor MCKAY. The standard of butter establishes its own line of distinction.

Mr. LEVER. Mr. Beall has shown that the consumer of butter and the purchaser of butter know that the colors are alike, but the consumer does not know its grade from the taste until he tastes it on his own table, after the fraud is already perpetrated. Is it not so under the present arrangement?

Professor MCKAY. The retailer can commit any crime if he wants to.

Mr. LEVER. I presume just exactly as a butter dealer would want to put oleomargarine on his unsuspecting customers, if he is not an honest man, he would want to put an inferior grade of butter on his customer at the price of the higher grade.

Professor MCKAY. A man who wants to do so can put anything on an unsuspecting customer.

Mr. LEVER. Now, then, another proposition in connection with this color standard for butter. A great deal has been said in reference to the original-package feature contained in a number of these bills, in order to prevent fraud on butter by oleomargarine and to protect the restaurant eater, the hotel boarder and boarding houses generally.

Would these boarders in hotels, restaurants, and boarding houses know whether or not they were getting 32-cent butter or 24-cent butter?

Professor McKAY. I think they would.

Mr. LEVER. Without any color distinction at all they would know all about it?

Professor McKAY. They would know from the quality of the butter; the flavor of butter is something you can detect; its flavor gives it its real value in all the markets of the world.

Mr. LEVER. You do admit that the unscrupulous dealer in creamery butter might palm off on his unsuspecting customers a grade of butter which is only worth 24 cents for 32 cents?

Professor McKAY. I will admit it would not be a wise policy for him to do it.

Mr. LEVER. But you admit he might do it?

Professor McKAY. He might do anything.

Mr. LEVER. And the only thing that would prevent him from doing that would be self interest?

Professor McKAY. Yes.

Mr. LEVER. And the only thing that would prevent the oleomargarine dealer and the butter dealer combined, one selling the two products, from selling to his customers oleomargarine for butter would be the fact that he might be detected? Would not the same principle hold as against that kind of a man?

Professor McKAY. I do not understand your question. Repeat the question, please?

Mr. LEVER. Well, the question is this: The only thing that prevents the dealer in creamery butter from selling a low grade of butter for a high price to his unsuspecting customers is that he might be caught in the act at some time and lose his trade, and the man who jointly sells butter and oleomargarine would sell to unsuspecting customers oleomargarine for a high grade of creamery butter except for the fact that he might be caught in the act at some time and lose his trade in creamery butter?

Professor McKAY. I beg to answer that in this way: It is impossible to sell low-grade butter at high prices.

Mr. LEVER. Why?

Professor McKAY. Because you might sell a pound of it, but every man, every intelligent man, that does business has at least sense enough not to sacrifice his business by attempting to palm off on the public an inferior grade or low grade of product.

Mr. LEVER. Do you mean to tell this committee that the taste of the public has been so educated that it can immediately, forthwith and without any difficulty at all, distinguish these fine grades of butter?

Professor McKAY. They could not distinguish, probably, between specials and extras.

Mr. LEVER. There is a difference in price in those grades?

Professor McKAY. There is usually a half a cent difference in price.

Mr. LEVER. How are you going to protect the public against the fraud that might be perpetrated upon them in such a case?

Professor McKAY. You mean restaurant keepers?

Mr. LEVER. The general consuming public, restaurant keepers and all.

Professor MCKAY. Not the general consuming public, but the dealers in butter. The butter, you understand, is sold on a score or a grade; if the grade is extra it is sold as such to the dealers, and the dealers are usually men that understand butter, the quality of butter; and in such a case they will pay the price and take that butter.

Mr. LEVER. But what about the man who goes in and buys a pound to take home to his family? Does he know about these nice distinctions and grades by looking at the butter or would he know by the taste of it when he gets home with it?

Professor MCKAY. Well, I do not know whether he would to the fraction of a pound; if he did not, he would get pure butter; at least, he would not get oleomargarine.

Mr. LEVER. Would he know it to the fraction of 2 cents difference on the pound?

Professor MCKAY. I think he would.

Mr. HOWELL. Are not the better grades of butter usually sold under trade-marks so that a customer becomes thoroughly familiar with the different brands or trade-marks under which he buys the butter?

Professor MCKAY. That is frequently practiced, yes.

Mr. HAUGEN. The statement has been made here time and time again that the two articles should stand on a par, that is the point the other side would have us understand, but more than half the time of these gentlemen has been consumed in asking questions to discredit butter. I do not believe it is fair that their time should be consumed in that way. I should hope this question would not be raised, that the articles might stand on their merits and let the consumers determine for themselves which article is the most wholesome and the purer article. Now, we have volumes of evidence—and if the gentlemen want it introduced I have it here—tending to show that oleomargarine is neither wholesome nor pure. If you wish to go into that question, let us go into it. As you have taken up all the morning along that line I would like to introduce the evidence of ex-governor Hoard, of Wisconsin, in connection with all of these questions.

Mr. LEVER. I will submit——

Mr. HAUGEN. And the evidence of other eminent men who knew what they were talking about.

Mr. LEVER. I would like to interrupt the gentleman.

The CHAIRMAN. Does the gentleman yield?

Mr. LEVER. He seems to be directing his remarks to me. I wish to submit I am not trying to discredit butter at all.

Mr. HAUGEN. Not at all; I was saying that at least two-thirds of the time has been consumed——

Mr. LEVER. And I wish further to say to the gentleman from Iowa that I will be the first man in this room to vote against the Burleson bill.

The CHAIRMAN. The line followed this morning by Mr. Beall and by Mr. Lever was intended to develop the fact as to whether customers might not be deceived as to the different grades of butter.

Mr. LEVER. If you will permit me, Mr. Chairman, I wish to say I wanted to draw out from this witness whether or not the butter people were interested in the consumer; that is the only proposition I am concerned in; whether these men were willing to apply the same standards and preventives against frauds for butter that I am willing

to apply for oleomargarine; that is the only proposition in which I am interested.

Mr. HAUGEN. If that is your issue, we will make that the issue. I believe it is fair now, in view of the time that has been consumed, that we should at least introduce a little evidence here, and I want to read from the hearings of ten year ago. At that time Mr. Hill—

Mr. LEVER. If the gentleman does that, I think he ought to put himself upon the stand, as I would like to cross-examine him on the proposition.

Mr. HAUGEN. You can cross-examine me right now.

The CHAIRMAN. I would like to inquire whether evidence taken before the passage of the present law and before the adoption of the meat-inspection act would be material to the point before the committee at this time? Of course, I put it up to the committee; I do not wish to make an arbitrary ruling on the matter.

Mr. LEVER. I submit, Mr. Chairman, that the gentleman from Iowa has constantly, throughout the hearings, submitted evidence which was taken ten years ago under conditions which were entirely different from conditions now; that evidence is printed and each member of this committee has been furnished with a copy of the evidence, but the gentleman now wishes to reprint it; it seems to me the record ought not to be burdened with that kind of testimony, testimony which is already available to the members of the committee. However, I do not seriously object to it and will not raise any objection to it; I submit it to the judgment of the committee whether or not it ought to be done.

The CHAIRMAN. The Chair is willing to entertain a motion if anybody desires to make one.

Mr. HAUGEN. Does the gentleman object to experiments carried on ten years ago in England?

Mr. LEVER. I do not object to that; what I object to is the reprinting of this testimony which is available and in the hands of the committee at this time.

Mr. HAUGEN. This is the statement made by Mr. Edmond Hill, a member of the Somerset County council of England, and it relates to experiments some fifteen years ago, and also the evidence of ex-Governor Hoard, of Wisconsin. Nobody will question the standing or integrity of these men.

The CHAIRMAN. Mr. Hawley suggests that Professor McKay is really the witness on the stand and we ought to conclude with him.

Mr. HAUGEN. I think we should settle this question, whether the two are of the same quality, whether both are wholesome and pure. More than one-third of the time has been consumed in putting questions that have had nothing to do with the situation.

Mr. LEVER. If the gentleman will move to have it inserted in the record, that puts it clearly before the committee.

Mr. HAUGEN. I do not have to do that. The gentleman took the stand and I have a right to take the stand as much as he had, and I will be glad to do it.

The CHAIRMAN. The immediate question, it seems to me, brought up by Mr. Haugen is whether the committee desires to have the evidence to which he refers brought before the committee.

Mr. HAUGEN. That is not the question. That is not the question I raised. I said we should settle the question now whether we are to discuss as to the quality and wholesomeness of either of these articles.

Mr. LEVER. There is a complete misunderstanding, as far as I am concerned, then.

The CHAIRMAN. The question before the committee, then, is this: Is it desirable to introduce evidence tending to bring out the question of the wholesomeness or purity of either one of these products—oleo-margarine or butter—any further than has already been done?

(The question was decided in the negative.)

Mr. HAUGEN. I understood you to say the supply and demand regulates the price. Is it not a fact that the increase in price of any article always increases the supply and stimulates that industry?

Professor MCKAY. Yes, sir. Now, may I give a little explanation right there. The advance in the prices of farm products was slower on the dairy side than on the general agricultural side; the result was that some dairymen changed over to beef production, and the supply of butter has not increased in that way. It has only been within the last few years that butter has really sold for what it is worth.

Mr. HAUGEN. The question was asked you whether you had any objection to the inspection of creameries?

Professor MCKAY. I have no objection to the inspection of creameries.

Mr. HAUGEN. You would insist upon the Government, however, furnishing the inspectors, as is done under the meat-inspection law?

Professor MCKAY. Yes, sir.

Mr. HAUGEN. And furnish the number of inspectors that would insure the inspection?

Professor MCKAY. Yes, sir.

Mr. HAUGEN. Would you object to an inspection law that would make it impossible to inspect all of the creameries, but simply inspect a few scattered creameries, thus shutting out the smaller creameries?

Professor MCKAY. I would want every creamery in the country inspected; not a few.

Mr. HAUGEN. You know what our experience was with the meat inspection?

Professor MCKAY. Yes, sir.

Mr. HAUGEN. You object to any such law?

Professor MCKAY. Certainly.

Mr. HAUGEN. If they would make a permanent appropriation of, say, fifteen or twenty million dollars—no one seems to know what it would require—guaranteeing inspection, you would have no objection?

Professor MCKAY. No, sir.

Mr. HAUGEN. Now, as to this "joker." This language is generally inserted in a bill for the purpose of deception?

Professor MCKAY. That was my understanding of it.

Mr. HAUGEN. And this language has been designated as a "joker" by the man who enforces the law, the commissioner who has the administration of the law. He ought to be competent to judge as to the language. I think that is all.

Mr. PLUMLEY. Grades of butter are not such because of color, are they?

Professor MCKAY. No, sir.

Mr. PLUMLEY. They are so graded because of the quality?

Professor MCKAY. Yes, sir; because of the quality.

Mr. PLUMLEY. Irrespective of the question of color?

Professor MCKAY. Yes, sir.

Mr. PLUMLEY. So the color question does not come into the grading of butter?

Professor MCKAY. It has nothing to do with the grading of butter.

Mr. PLUMLEY. Now, speaking of cream, and its being brought in every second day. Does it hurt the cream to be kept two days?

Professor MCKAY. Why, I have seen cream come in three or four days' old in more perfect condition than I have seen cream come in that was just one day old; it depends upon the grade.

Mr. PLUMLEY. You keep it one day, or twenty-four hours, after it is separated for the purpose of ripening, anyway?

Professor MCKAY. We sour the cream before we make it into butter.

Mr. PLUMLEY. And it takes twenty-four hours, ordinarily, does it not, without using artificial means?

Professor MCKAY. Yes, sir.

Mr. PLUMLEY. So if cream is retained from the separation of yesterday until cream is separated to-day, and brought in from the farms, the first cream has simply ripened, has it not?

Professor MCKAY. Yes, sir; soured.

Mr. PLUMLEY. And you would keep it twenty-four hours before churning it, would you not?

Professor MCKAY. That is right.

Mr. PLUMLEY. So the retention of cream for two days—that is, bringing it in every second day—brings in the product of that day's separation and the product of the day before, does it not?

Professor MCKAY. Yes, sir.

Mr. PLUMLEY. And that would be simply ripened cream, ready for the churn; is that right?

Professor MCKAY. Not always; because the cream can be kept sweet, but if it did come in sour it would be, naturally, ripened before churning.

Mr. PLUMLEY. I am endeavoring to speak of the effect of keeping the cream one day. Under ordinary circumstances it simply ripens it ready for the churn, does it not?

Professor MCKAY. That is all, yes, sir.

Mr. PLUMLEY. And if brought to you the day it was separated you would have kept it; that is, your creamery would have kept it, would they not?

Professor MCKAY. Used it the next day.

Mr. PLUMLEY. Now, while you might have inspectors for your creameries, if there were a sufficient number—and perhaps that would be practical—there are scattered over the country, I assume you know in a general way, a large number of home creameries which have their centrifugal separators and their own tub churns?

Professor MCKAY. Yes.

Mr. PLUMLEY. They make their own butter and place it upon the market, and if they are good dairymen they get fancy prices for it; they would have to be provided with inspectors, would they not?

Professor MCKAY. They certainly would, if you are going to have a general inspection.

Mr. PLUMLEY. And it would mean a very large number of inspectors to take care of these home creameries, would it not, in addition to the large creameries?

Professor MCKAY. It certainly would.

Mr. PLUMLEY. These home creameries are no small factor, are they, taking the country over?

Professor MCKAY. There are thousands of them scattered throughout the country.

Mr. PLUMLEY. Now, speaking of the tubercular bacilli in butter, were you present when the testimony was given by one of the officers of the Government as to the tubercular bacilli in oleomargarine?

Professor MCKAY. No, sir.

Mr. PLUMLEY. You were not present?

Professor MCKAY. No, sir.

Mr. PLUMLEY. And you did not hear his statement that there was only two-tenths of 1 per cent difference between the two—that is, from all the reports that have been made and published?

Professor MCKAY. No, sir; I did not hear the testimony of the gentleman.

Mr. LEVER. You made a statement a moment ago, in giving some figures as to the cost of the manufacture of oleomargarine, from this book, Wilder's book, I believe?

Professor MCKAY. Yes.

Mr. LEVER. That book was published when?

Professor MCKAY. 1905.

Mr. LEVER. Has there been any increase in the price of the various ingredients that enter into oleomargarine since that time?

Professor MCKAY. Probably there has been a slight increase, but you would not think so, from the fact that they are selling oleomargarine at retail down here for 13 cents.

Mr. LEVER. Butter is used in the manufacture of oleomargarine, as well as cream?

Professor MCKAY. A small quantity; it depends upon the grade.

Mr. LEVER. Does that increase the price?

Professor MCKAY. Yes; that increases the price some.

Mr. LEVER. The prices of steers have increased?

Professor MCKAY. Yes.

Mr. LEVER. The prices of steers have increased?

Professor MCKAY. I do not know that the price of intestinal fats have increased.

Mr. LEVER. However, the prices of steers have increased?

Professor MCKAY. Yes; but those low-grade fats do not fluctuate up and down.

Mr. LEVER. Do you suppose the oleomargarine dealer buys steers for the intestinal fats alone and that the prices are regulated by the amount of intestinal fats obtained?

Professor MCKAY. Certainly not.

Mr. LEVER. But he does buy the steers?

Professor MCKAY. He uses the offal for oleomargarine.

Mr. LEVER. I know, but what does he buy? Does he buy the steer on its feet?

Professor MCKAY. He buys the steer on its feet.

Mr. LEVER. Why, of course. This book was published, in point of fact, before the passage of the meat-inspection law, was it not?

Professor MCKAY. I am not sure what year the meat-inspection law was passed.

Mr. LEVER. That is true.

Professor MCKAY. I am not questioning the purity of your product.

Mr. LEVER. And the prices of all the ingredients entering into oleomargarine have increased since 1905; therefore, the facts you give us from that book would not be of great information to the committee, would they?

Professor McKAY. I think they would.

Mr. LEVER. You think they would?

Professor McKAY. Yes.

Mr. LEVER. You said a moment ago, in answer to Judge Plumley's question, that color in creamery butter did not differentiate the different grades of creamery butter?

Professor McKAY. Certainly not.

Mr. LEVER. I believe in answer to my question a little earlier you said that all creamery butter, when artificially colored at all, was colored alike?

Professor McKAY. No, sir; this market demands a deep shade of color, New York demands a light color, and Boston demands something else, for instance.

Mr. LEVER. And Chicago something else?

Professor McKAY. It might, yes. Of course, in the summer months, when no color is used, they have to take whatever color they can get.

Mr. LEVER. We will take the New York market. The New York market will demand a light color of creamery butter, we will assume—I do not know anything about it—during that period in which artificial coloring is used, and all of these various grades of creamery butter are given the color demanded by the taste of the expert public of the New York market, is that not true?

Professor McKAY. Butter in that shade; yes, as nearly as possible; of course sometimes the shade of color is not uniform.

Mr. LEVER. If they do not get the shade it is not their fault; they try to get it as near as they can?

Professor McKAY. They try to cater to the market.

Mr. LEVER. They always try to get the color up to the standard that is required by the taste of the consuming public, and their reason is, I assume, that the public demands it and is willing to pay for the standard reached?

Professor McKAY. There would not be any difference in the price for preferring it in this shade. If you had butter that scored 95 points of a hundred for perfection, or if you had butter that scored 93 and was of a darker shade or a lighter shade, the difference in the score would fix the price, it would not be the color.

Mr. LEVER. Of course, the public knows a great deal about the scores in butter?

Professor McKAY. Why, the dealers in butter know.

Mr. LEVER. I know, but the dealers in butter do not eat a great deal of the butter; it is the fellow that eats the butter in whom I am interested. Does he know anything about the scores in butter?

Professor McKAY. From the flavor of the butter he does.

Mr. LEVER. The only safeguard the fellow who eats the butter has against a low grade of creamery butter being palmed off on him for a higher grade is the flavor and not the color?

Professor McKAY. It is the flavor.

Mr. LEVER. That is your contention?

Professor McKAY. Yes.

Mr. LEVER. And yet all of this creamery butter in the local market is colored the same way to meet the taste of the consuming public; that is your statement?

Professor MCKAY. The butter is all colored to meet the taste? No; to meet the demands of the market, not the taste.

Mr. LEVER. Well, that is the same thing.

Mr. FLANDERS. Professor McKay, is it a fact that the flavor of rancid butter is of such a nature that it will always tell the consumer the condition of the butter so he need not be deceived?

Professor MCKAY. Certainly it is.

Mr. FLANDERS. Now, just one more question. Is it not true that Boston demands a brown egg and New York a white one?

Professor MCKAY. Yes, sir.

Mr. FLANDERS. But they both expect to get eggs, do they not?

Professor MCKAY. I believe so.

Mr. FLANDERS. And would not be satisfied with a substitute for an egg?

Professor MCKAY. No, sir.

Mr. HAUGEN. Nor would they accept an egg made out of cotton seed?

Professor MCKAY. No, sir.

STATEMENT OF E. J. HAINER, OF LINCOLN, NEBR.

Mr. HAINER. Mr. Chairman and gentlemen, I appear before you for the purpose of protesting against the repeal or lowering of the tax on colored oleomargarine, or in any way weakening the existing laws regulating its production and sale, and urge instead that the laws in that regard be strengthened and made more effective. I am and have been for thirty years an officer and stockholder in a creamery company which is now making approximately 12,000,000 pounds of butter per annum.

The issue involved is not a new one. It has been a vexed and vexing one for nearly two score years, and bids fair to trouble American solons and citizens for a long time to come. The product in its original form was invented in 1869 in France by Meze Mauries, born of the necessities of the French garrison then beleaguered in Paris. Its similarity to butter made it possible to offer it for sale as butter and it was in fact so used until 1887, when numerous complaints led to the enactment of a law whereby the French reserved the designation of "butter" exclusively to the product of the milk of the cow, and it was prohibited to sell any imitation of butter under any name than "margarine." The trouble began immediately, for the law only prohibited the substitution of margarine for butter, it did not define margarine, nor refer to mixtures or fix any maximum or minimum of margarine that might be permitted. To locate fraud in such case was well nigh impossible. The complaints would not down. The French, no more than Americans, would choose to use margarine after the stress of the siege was over. They would use it as butter at butter prices only when overreached by fraud or imposition. The law of 1887 proved ineffective, complaints continued and led to the enactment of the law of 1897, the purpose of which was to both punish and prevent the fraud. In every civilized country laws have been enacted in the line of regulating this product, and these are being strengthened

as experience dictates, and are nowhere being weakened. Every where the traffic in oleomargarine has been a fruitful source of fraud. Everywhere it masquerades as butter, evades the rules of common honesty, poses as the poor man's friend and food, usually to cheat him in purse and stomach.

In the United States the first oleomargarine law was enacted by the Congress in 1886.

Grover Cleveland, then President, deemed it proper, in view of the importance of the subject and the public interest aroused, to accompany the notice of his approval to Congress in a memorable message, from which I quote:

The Constitution has invested Congress with a very wide legislative discretion, both as to the necessity of taxation and the selection of the objects of its burdens.

Those who desire to see removed the weight of taxation now pressing upon the people from other directions may well be justified in the hope and expectation that the selection of an additional subject of internal taxation, so well able to bear it, will in consistency be followed by legislation relieving our citizens from other numerous burdens rendered by the passage of this bill, even more than heretofore unnecessary and needlessly oppressive.

Referring to the Cassandra wail then as now ascending he said:

I am convinced that the taxes which it creates can not possibly destroy the open and legitimate manufacture and sale of the thing upon which it is levied. If the article has the merit which its friends claim for it, and if the people of the land, with full knowledge of its real character, desire to purchase and use it, the taxes exacted by this bill will permit a fair profit to both manufacturer and dealer. If the existence of the commodity taxed and the profits of its manufacture and sale depend upon disposing of it to the people for something which it deceitfully imitates, the entire enterprise is a fraud and not an industry.

Not the least important incident related to this legislation is the defense afforded to the consumer against the fraudulent substitution and sale of an imitation for a genuine article of food of very general household use. Notwithstanding the immense quantity of the article described in the bill, and notwithstanding the claims made that its manufacture supplies a cheap substitute for butter, I venture to say that hardly a pound ever entered a poor man's house under its real name and in its true character. Having entered upon this legislation, it is manifestly a duty to render it as effective as possible in the accomplishment of all the good which should legitimately follow in its train.

I commend to your thoughtful consideration the language of this President, who is sure to live in history as one of the great, level-headed Presidents of the United States. I am Republican, but I am glad to pay this tribute and did it before he died. The great purpose of the original oleo law, and the subsequent legislation along the same line, including the enactment of the pure-food law in 1906, was to secure the people a measure of protection against every scheme tending to foist upon them what they did not wish. The theory of these laws has been that a man is not only entitled to what he wants, but when he purchases an article purporting to be one thing not to be cheated by having some inferior or different article passed off on him. These laws require a fair degree of honest dealing. We know there is an immense amount of deception, fraud, and deliberate swindling in the handling of foods. Penalties ought to be aimed at cheats and aimed to hit, and hit hard. We are right to forbid sales under false pretense. The sale of the inferior for the superior is the worst sort of false pretense.

No honest dealer need fear any provision calling for open, honest dealing. Legitimate trade should welcome all reasonable supervision and regulation. The ingenuity of man is busy every moment

of the day and night in devising new forms of machinery and methods, and combinations and processes, to cheapen the cost of production of articles of food, by means good and bad. They resort to mixtures, adulterations, preservatives, substitutes, and the like, without end.

So far as these work harm or deception they should be met with governmental restraint. The development of laws to bring righteousness out of all this conflict is of the highest work of patriotic statesmen, and can not be done by a single individual or even a class. When accomplished it is found to be the epitome of the best thought of a nation. Not even then will it be perfect; in some respects it will be ineffective; the designing will circumvent the true thought at times; and this case is an apt illustration. By accident or deep design a word or a phrase will creep into the law in its enactment, and experience will discover that it brings with it no end of doubt and uncertainty and sometimes even result in the direct opposite of that intended or supposed by the legislative body. The interpolation of the word "artificial" before the word "coloration," in the present law, allows the avoidance of the entire legislative plan of imposing a tax of 10 cents per pound on oleomargarine which is colored artificially in imitation of butter, for it is now construed as not applying when such coloring is done by using an ingredient which serves a substantial purpose in the compound in addition to the coloring.

Did the Congress anticipate any such a result? Certainly not. But the fact is that under the construction stated the great bulk of oleomargarine now sold on the market, though colored in perfect imitation of June butter, is passed by our revenue officers as "uncolored." Does not this development demand corrective legislative action? Is that the sort of "failure of law" which justifies the repeal of the tax provision?

In so far as the failure is due to violation or evasion, can that be assigned as a valid reason for repeal? The tax violates no provision of the Constitution; it offends no canon of good morals. It places no obstacles in the way of sale of a commodity for what it is. It is a burden on that only which masquerades in a cloak which is not its own. It is a handicap only on fraud and deception. Is it the part of wisdom or strength or righteousness to reduce penalties on the demand of the willful and persistent transgressor?

Would it not be wiser to amend the law and enforce it?

Laws of this class have invariably been enforced. The supreme court of New York in *People v. Arenburg* (105 N. Y., 123), held:

Assuming, as is claimed, that butter made from animal fat or oil is as nutritious and suitable for food as dairy butter; that it is composed of the same elements and is substantially the same article, except as regards its origin, and that it is cheaper and that it would be a violation of the constitutional rights and liberties of the people to prohibit them from manufacturing or dealing in it, for the mere purpose of protecting the producers of dairy butter against competition, yet it can not be claimed that the producers of butter made from animal fat or oils have any constitutional right to resort to devices for the purpose of making their product resemble in appearance the more expensive article, known as dairy butter, or that it is beyond the power of the legislature to enact such laws as they may deem necessary to prevent the simulated article being put on the market in such a form or manner as to be calculated to deceive.

In *Waterburg v. Newton* (21 Vroom, 534) the New Jersey supreme court sustained the validity of a statute forbidding the sale of colored oleomargarine. The court held that the question of wholesomeness

was immaterial, and that the object of the law was "to secure to the public at large a fuller and fairer enjoyment of their property by excluding from the market a commodity prepared with a view to deceive those purchasing it."

To the same effect may be cited decisions of courts of last resort in New Hampshire, Massachusetts, Missouri, Pennsylvania, Minnesota, and the Supreme Court of the United States.

In this connection, I can not pass without an expression of surprise to note that in the bill H. R. 13842, introduced by Mr. Burleson, of Texas, it is proposed to repeal the present law, the act of May 9, 1902, which makes oleomargarine "and other imitation dairy products" subject to the laws of the States and Territories into which they are transported.

Has the spirit of states rights forever departed, and the demon of centralized power taken possession of the sons of the South?

Heretofore Congress has been careful to make it clear that it has no purpose to restrict the power of the States over subjects plainly within the jurisdiction of the States, and especially to matters of regulations touching manufacturers and sales of articles within their borders. The Burleson bill retains section 3243 of the Revised Statutes, which reads:

The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State, or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business for State or other purposes.

But this section relates only to tax and authorization to begin or continue the business in a State. Why deny to a State the right to inspect the goods and to regulate the business?

The Burleson bill does not stop with taking from the State the right of inspection and regulation of the sale of oleomargarine; it takes away all special federal taxes thereon, colored or uncolored.

The CHAIRMAN. Mr. Burleson is not present, but when that statement was made the other day he expressed the opinion that the repeal of the act of 1902 would reinstate the act of 1886, so that the old tax at 2 cents a pound would be restored.

Mr. HAINER. I was present when Mr. Burleson, to my utter amazement, made that statement. I immediately verified the law of the case, and I want to call the attention of the committee most seriously, and of Congress generally, to the true condition of facts.

The CHAIRMAN. You hold the opinion, then, that the repeal of the act of 1902 would not, *ex propria vigore*, restore the act of 1886?

Mr. HAINER. No; as a matter of fact, on that proposition I want to call your attention—

The CHAIRMAN. I just wanted your opinion.

Mr. HAUGEN. This is an important matter, and I would like him to be heard. Mr. Burleson did not deny that; he pointed out a certain section and he said, "Get your lawyer;" that was all he said. He is too much of a lawyer to deny it.

The CHAIRMAN. Mr. Burleson, in answer to Mr. Haugen's query, made the statement that when the act of 1902 was repealed, inasmuch as it was an act which repealed the enactment of 1886, the latter would, therefore and thereby, be restored to the statute books.

Mr. HAINER. I so understood it. Then the question came up in my mind at once: Would a repeal of the law reinstate the other law? That was the question. So then I immediately sought the statute, and I call your attention to section 12, chapter 2, Title I of the second edition of the Revised Statutes of the United States for 1878, and that section 12 reads as follows:

Whenever an act is repealed which repealed a former act, such former act shall not thereby be revived, unless it shall be expressly so provided.

And there is no such express provision. My friend, Mr. Haugen, will remember that we looked over the statute together, and this copy was taken in his presence.

Mr. HAUGEN. I will state I have taken Mr. Burleson's advice and gotten a lawyer, and I have him here this morning, and if you have any questions to ask, very well.

Mr. HAINER. The original oleomargarine law of 1886 imposed on all oleomargarine a special tax of 2 cents per pound. The act of May 9, 1902, amended the original act by imposing a special tax of 10 cents per pound on oleomargarine with the proviso that "when oleomargarine is free from artificial coloration that causes it to look like butter of any shade of yellow, said tax shall be one-fourth of a cent per pound."

At that time it was well known that the natural color of oleomargarine as then made was white. That it was yellow and "looked like butter" only when it was "artificially colored." The "joker" consisting of the words "artificially colored" was therefore inserted without great difficulty. Its significance was not apprehended. The gentlemen engineering the business were more ingenious than ingenuous.

They are apparently working with the same methods now.

The Burleson bill in terms repeals the act of May 9, 1902, which imposed the tax on oleomargarine.

It makes no provision for any other tax thereon. The title is:

A bill repealing the tax on oleomargarine and other dairy products as fixed by the act of May 9, 1902, and substituting in lieu of said tax an annual license.

So we do not have to go any further than the Burleson bill itself to see that he wants to make it absolutely sure that there shall be no tax on oleomargarine, but instead of the tax there shall be an annual license.

The act of May 9, 1902, fixed the tax at 10 cents on "artificially colored" and one-fourth of a cent on oleomargarine not artificially colored, and is the only act in existence taxing oleo, the original act of 1887 having been repealed. Now, if the Burleson bill is enacted it takes the place of the act of May 9, 1902, and repeals it, expressly so does it on the first page of the bill.

What tax then have we on oleo, either colored or uncolored?

The Burleson bill makes no provision for a tax. Is that what the people want? Is that in accordance with the best and most patriotic judgment of Congress? In these days when you are in serious quandary searching for objects which may bear the heavy burden of taxation, is oleo to be the special object of favor and be relieved, while a corresponding levy is to be made on the honest productions of the country?

Is it in this way that this Congress is to prove itself the poor man's friend? The man who so thinks underestimates the intelligence of

the average American, and, in the language of the street gamin, has "another think coming."

Again, there is no provision in existence or proposed in any bill now pending which defines with any degree of exactness oleomargarine. Section 2 of the act of August 2, 1886, provides that for the purposes of that act "certain manufactured substances, certain extracts and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as oleomargarine, namely: All substances heretofore known as oleomargarine, oleo, butterine, lardine, and neutral * * *, vegetable oil, armatto, and other coloring matter, intestinal fat and offal fat made in imitation or semblance of butter, or when so made calculated or intended to be sold as butter, or for butter."

I remark in passing that in assuming the name of oleomargarine its manufacturers and handlers admit that it is "intended to be sold as or for butter."

But the terms used do not limit the substance which may be used in the manufacture of oleo. No limitation is imposed by law. There is no prohibition of coloring matter which may be used.

Neither does the Burleson bill impose any such restrictions. It tears away every present limitation or burden except those relating to license, label, and package.

Under it you may put in what you please—nothing vile is excluded—you may "fix" it or "doctor" it as you please, color as you please, cover up its true character as you can, exhaust all the wiles and arts of the devil and his scienced imps to deceive and cheat the consumers of the land, and yet have the sanction of the proposed law.

It is a maxim of the law that you shall judge an enactment by what may be done under it. If we are to so judge the Burleson bill, I am certainly well within bounds when I assert that it gives carte blanche to fraud and swindling. A letters patent for the abominable, and what we are making our first serious effort to amend in our pure-food law. Every new law we enact should be in line with that law, and we should pass forward to higher ground. We should take no backward step. Our laws should be consistent and progressive.

We should not for the purposes in hand disagree as to the facts.

Let us admit that when properly manufactured and in right condition oleo is wholesome, nutritious, and may serve as a meritorious article of food.

That butter is also, when so manufactured and in such condition, wholesome, nutritious, and meritorious. That it is universally deemed the best food lubricant known to man, and more expressive than oleo. That it is also more easily digested and more palatable; in short, that the human family generally prefer it to oleo for the purposes to which either is ordinarily applied. That they are different and not the same. That the human taste and stomach do differentiate between them and give the preference to butter always finally appears.

That butter has, since time immemorial, held its place in the dietary of the world, and also that oleo is an invention of the last forty years. Oleo seeks to take the place of butter. What are the methods employed?

It is made as nearly as possible in imitation of butter, in texture, form, color, taste, aroma, form of package, nomenclature, and every detail, particular, and attending circumstance, except label on packages. Butter and milk of the best quality are used to heighten the similitude. All this is done to appeal to patronage. At the table, the point of consumption, it is only on the rarest of occasions that the consumer is advised that he is being served with oleo, and not with butter. Does he ask the waiter to help him to butter? Oleo is handed him. Why all this effort to simulate butter? It certainly is not due to philanthropic intentions, and purposes. It is solely for the profit there is in it. The credit balance appearing after the account is cast up. The appeal is made to the general desire for butter. In imitation appears the unconscious homage which the inferior always pays to the superior—the sincerest flattery. It is the case of pewter and lead counterfeiting silver, and glass counterfeiting diamond. Whoever heard of the silver attempting to counterfeit lead or the diamond, glass? Never until a few days ago in this presence, by a manufacturer of oleo from Columbus, Ohio, I believe, was it seriously insisted that oleo was better than butter, that butter making was obsolete, and should be abandoned, while the cow should be abolished except for beef purposes. He proved his sincerity by telling us he named his oleo factory and business "The Capital City Dairy Company." (Testimony H. C. Pirrung, 181.)

The same witness testified (173) "Prior to the enactment of the law of 1902, we used a lesser proportion of the oleo oil than of neutral. Now, under existing law oleo oil predominates." The change was made, he says, "Because it added a slight tinge of yellow to our product."

The testimony of John F. Jelke (88), who has won the respect of all who heard him by his candor and evidently correct as well as large fund of first-hand information is:

The incentive to produce the colored, which is worth 9½ cents a pound more, has encouraged the manufacturers to use a yellow shade of cotton-seed oil, corn oil, and soy-bean oil, or mustard-seed oil, or some such oil as those, in order to produce a yellow color, and to mix therewith some June butter; that is, bought in June and has the natural June shade, and together they mix and make a yellow-tinted product that is as easily sold for butter as the 10-cent tax goods, on which the manufacturers are supposed to pay 10 cents a pound tax. * * * The oils so used are of an inferior quality to the refined oils of a better class that produce a fine, sweet-flavored oleomargarine. The butter dealers and their counsel have been very wisely advised and they have learned that it is impossible to produce a high-grade oleomargarine by the use of yellow-tinted oils of any character except in a very short space of the year. The natural color of oleomargarine, as the butter people know, and I will leave it to any of them here, of a good quality, is white.

Now, I pause to make the statement that comes from the fixed intention and purpose to make it look like June butter, and I say that no stronger evidence can be produced that it is the intention of the manufacturer to make a product which simulates butter, which can be easily passed off as butter and which, in common experience, we know will be passed off as butter; in other words, they know they are making a product and intend to make a product which is not butter, which is the inferior of butter, which they know will be passed off as butter, and they make it with that intention, and that is what gives it value.

Doctor Crampton, the government chemist and expert, testified (65) that oleo is "not on par with butter," questions it as to nutri-

tion and digestibility. That butter and milk are largely used in the manufacture of oleomargarine. That the more they are used the better the product. That on the other hand, oleomargarine is to a "large extent" used to adulterate butter.

That in his opinion of late years "fraud has been practiced to a very large extent," usually by "retail sellers," and "who engage in that business on account of the large profits that are offered * * * sell it as butter."

On being asked by the chairman, "It is proposed by some of those who are anxious to prevent the fraudulent sale of oleomargarine to change the wording of the law so as to provide that oleomargarine made any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be deemed to be colored oleomargarine and subject to the 10-cent tax. I should like to inquire whether in your judgment the modification of the law as I have just indicated would make it easier of enforcement?" Doctor Crampton replied: "I should think it would; yes, sir. It would cut out this technically colorless oleomargarine which is real, not colorless."

He also testified that vegetable oils are not necessary ingredients of oleomargarine, and that it can be made of beef fats which are colorless (68), and that the highest grades of oleomargarine contain beef fats and lard, while only the inferior grades contain cotton-seed oil, which is an inferior and low-grade ingredient.

In other words, the consensus of opinion is that originally oleomargarine was: First, a substitute for butter; second, an imitation of butter, and that cotton-seed oil is an adulterant of the imitation.

Now, gentlemen, I submit this, that where the testimony shows that the best oleomargarine can be made without using anything which tends to color it in the similitude of butter you are not justified in framing a law which shall enable it to be colored in the similitude of butter, and thus perpetuate this fraud which is a disgrace upon our American commerce.

The real problem before this committee and the Congress is to protect the ultimate and fair rights of both butter and oleomargarine; to protect rights and prevent fraud.

Each has merits not one of which should be denied. Each has its proper field from which it should not be excluded.

So far as each has virtues it should be encouraged.

To the extent that either has vices an effective correction should be courageously applied. The wise mother uses both jelly and the slipper, each where it does the most good. I commend the example of the wise mother to the Congress of the United States.

Mr. LEVER. In that connection, Judge, you admit that both of these products have their vices?

Mr. HAINER. There is not a good thing in this world that is not abused; let us be honest about it.

The incentive to sell oleomargarine as and for butter arises from the difference in cost and value. This difference is from 10 to 15 cents, varying with the season. The cost of producing oleomargarine is practically the same the year around. The cost of producing butter is greater in the winter than in summer. It is only when it is made to look like butter that oleomargarine can be sold as and for butter. The labels on packages may advise the purchaser in bulk of the character of the product, but the consumer at the table has no such protection.

The dealer, wholesale or retail, purchases in bulk and is protected by package and label. He deals largely and may be protected, also, by contract of guaranty as to quality, etc. His transactions are sufficiently large to justify him in enforcing his contracts.

The consumer at the table is not so protected. He is supplied at each meal with 1 or 2 ounces of what purports to be butter. He has neither time nor means for investigation. Usually he is disinclined to make inquiry or protest, which must prove disagreeable, with so little in each instance involved. He usually yields reluctantly, but still yields, to the imposition and pays butter prices for oleomargarine. The manufacturer, jobber, wholesaler, and retailer, well knowing the use to which the stuff will be put, divide the profit in proportion to their respective pulls. They do not deceive each other. Each knows perfectly what the others are doing and approximately what each retains. Each knows in general the true character of the commodity handled. The fraud and imposition are practiced on such purchasers at retail, and consumers who do not learn the true character of the article, or, learning, can not protect themselves; they have no effective choice.

Every pound of this inferior product displaces an equal quantity of superior product, and the result aids no one except the man who is a party to the swindling transaction.

As usual, the southerner, who, following his blind leaders, devotes himself to the production of crude and raw materials, like cotton, cotton seed, and its oil, get but the crumbs which fall from the table. The pittance falling to him, in this case less than a cent to the acre he owns, if devoted to the dairy and fed to the cows and calves he might well raise would bring him a hundredfold more, but to hold this mite allies himself with the forces of deception and fraud.

Some day, I hope, not in the far-distant future, North and South, brethren, will meet and counsel in confidence. The North will learn to heed more than in the past the experience of the South in solving that most momentous race problem, and the South will learn to diversify its industries and develop its wonderful industries which are as yet but scarcely touched. The South shall not always remain the mere "hewer of wood and the bearer of water" of America.

Some years ago I made a trip on horseback through Texas. I never saw a more magnificent country. It abounded in almost everything that man needs for his comfort or his heart could desire for his happiness, and yet I saw there scarcely a manufactured article which did not come from the North. The lumber which built the farmhouses came from the pineries of the North. The clothes on the Texan's back, while grown on his acres, were woven in the North. The leather in his boots, taken from the backs of his own cows after being caught by a lariat, had been tanned and made into an article of wear in the North. The tools he used, the wagon he drove, the harness on his horses, the furniture in his house, the crockery and knives and forks and spoons on his table, were of northern manufacture, and the very bacon he ate had the Kansas City brand of Swift & Co. upon it. The bucket in which he brought what he called "tank water," in which we bathed our faces, the washpan and comb and looking-glass and towel we used, were all from the North, and doubtless when the good man, for he was good and hospitable to a fault, dies his grave will be marked by a block of Vermont granite, perpetuating the

memory of that wretched and mistaken policy which refused to develop the splendid gifts of God to his region, refused to cultivate the dairy which would keep his fields fertile and make his farm a factory; but instead he stuck to his cotton, planting the same over and over again for forty-six years, the while insisting the land was as fertile as ever, and continuing to vote for the gentleman who introduced H. R. 13824 in aid of the "poor packers" and that peculiar brand of freedom which leaves his people in the servitude of undeveloped conditions.

Verily, most people are poor because they have poor ways.

Think of it. For the raw oil in the cotton seed the southern planter receives approximately 3 cents per pound. For such beef and hog fat as are used in making oleomargarine the farmer does not receive over 8 to 10 cents per pound. For a pound of butter fat the Nebraska farmer receives to-day not less than 26 cents. It takes eighty-four one-hundredths of a pound of cotton-seed oil, beef, and hog fats to make a pound of oleomargarine.

If the fat in a pound of oleomargarine were all cotton-seed oil, it would net the southern planter who produced it about 2½ cents. If the oil in a pound of oleomargarine were all of beef and hog fats, it would bring the farmer about 4 cents.

By the same token the fats in a pound of butter net the producer of that kind of fat about 25 cents. Since the same people do or may furnish the butter fat for butter as furnish the oil for oleomargarine, I ask, in all seriousness, Is it wise for them to substitute the inferior and cheaper article for the superior and more expensive? Is it wiser for the consumer on his part to take, at substantially the same price, the inferior oleomargarine as the superior butter?

Is he wise to play into the hands of the man who pats him on the back and bewails his poverty, and at the same time keeps him poor by selling him a low quality of food at practically the price for the best?

It is not a question of furnishing "cheaper" food for the masses who can not obtain the food they desire. It is rather, Shall poor and inferior food be deceitfully palmed off on the American consumer who wants and can afford the best, and shall the counterfeit command practically the price of the genuine? Let us at least be honest in our discussion. We may thus "get the habit."

When oleomargarine is denied the color of butter, the consumer has, with every particle of it, an effective and adequate protection. His eye, which can not be so deceived, warns him. He needs to make no scientific test. A glance tells the truth. If he then eats it, he does so with full notice. A man ought not to be compelled or deceived into eating that against which his taste or judgment rebels.

Few of us take kindly to sumptuary compulsion, legal or otherwise. Many of us believe that the measure of the prosperity of our country is surely indicated by our scale and standard of living. We believe in the laws of honesty, fair dealing, in the teaching of the Gospel. "Let your conversation be yes, yea, nay, nay."

What honest objection can there be to a law providing under a stiff penalty that one article shall not masquerade as another?

Butter has a color which has been its since butter was first churned. Do we by addition make that uniform? It is butter still and so understood to be, but when you add the same color to oleomargarine, while

it remains oleomargarine still it has the appearance of butter, and not only may well deceive, but does actually deceive many. Where there can be no deception or wrong or harm done, we may and should permit the coloring. But when the act works a fraud and swindle for many we do right in forbidding. This is our general rule of action.

If this principle is sound, and it can not be denied that it is, we should compel the use of such color for oleomargarine as differs from that of any shade of butter. This would insure against any confounding of oleomargarine with butter.

But if it is then asked "if we do this will you still insist upon placing a tax of 10 cents or any other sum on oleomargarine?" I answer: The experience of the world is that it is as easy for oleomargarine to masquerade as butter as for a duck to swim. It must therefore be held under close surveillance. To make sure of federal supervision I would favor a nominal tax on oleomargarine, which has not any shade of butter, and on all other oleo I would impose a tax sufficiently high to eat up every possible bit of profit to be gained by coloration in similitude of butter, and heavy penalties should be surely and swiftly visited on violators. Fraud and deception should be made unprofitable.

That I deem good statesmanship. All laws should be framed with the end to make it as easy as possible to do right and as difficult as possible to do wrong. I would give equal encouragement to the making of the best butter and the best oleomargarine and place both under the supervision and control of the Department of Agriculture.

We have no class distinctively known as dairymen. There are nearly 6,000,000 farmers in the United States, nearly 80 per cent of whom milk cows and make butter. They constitute the largest and most meritorious portion of our people. Upon them must our nation depend for its supply of food and recruiting of the ranks of its other industries and every profession. It is from these people that the real demand comes. Few of them will come here and in visible presence voice their just insistence. Not even will their representatives ask favors. They seek no special privilege. Honest themselves, the farmers of this land ask only that the fraudulent practices of which they with so much cause complain and which are universally admitted shall be abated, that only honest products in their honest and distinctive garbs be admitted in competition in this land of fair play with their own genuine productions.

These people produce of genuine butter annually in the United States in round numbers about 1,500,000,000 pounds. This butter is of the average value of approximately 30 cents per pound, making in the aggregate \$450,000,000. In my own State we produce, in the aggregate, 75,000,000 pounds, worth approximately \$20,000,000, being an amount exceeding the entire value of the cotton-seed oil furnished to the manufacturers of oleomargarine fortyfold, taking the testimony of the witnesses, who testify that the value of the cotton oil furnished by 11 cotton-seed States was nearly half a million dollars.

Mr. Chairman, commercial honor is the greatest asset of a producing and trading people. That people whose motto and work spell "quality and fair dealing" produce the best and have always and shall lead the world in every line of human endeavor. I covet for my country that sort of leadership.

As one who once served on this committee, and who shall ever take a just pride in its good work, I earnestly beg you to measure up to the high standard of integrity, purity, and progress which is characteristic of the people whose name you bear, and taking no backward step, see to it that in the laws emanating from the Agricultural Committee there is no premium on the inferior—no letters-patent for fraud.

I wish to thank you all, Mr. Chairman and gentlemen, for the exceeding courtesy and fairness which has characterized this entire hearing. I feel sure that we could not have met with a more reasonable or better reception, and I have every reason to believe that the bill which emanates from this committee will do justice by all.

I have just this one practical suggestion to make, that you gentlemen who have patiently given so much time to the consideration of this question, take into consideration all that you have heard and very much more from what you will think out, and you will practically perfect your bill here. I think there are a number of changes which must be made in any one of these bills. I would make it correspond as much as possible with the pure-food law. I would establish a standard for oleo and a way by which you can definitely ascertain oleo, which is manufactured from the oleo which is not the genuine oleo. I feel sure that there is a large class of manufacturers of oleomargarine, like Mr. Jelke, whom I have heard here, who can be of very great benefit, and who want to do what is right. They have a meritorious product which is entitled to consideration, and it should have it, and I ask for nothing unfair to them. I ask only that the line of demarcation be clearly made, so that a man who steps over from one to the other will be certainly detected and will receive merited punishment.

Again I thank you.

The CHAIRMAN. I am sure the committee appreciates your suggestions very much, Judge Hainer, and I can say on behalf of the committee we are very much obliged for your discussion of the subject.

(Recess taken until 2.30 p.m.)

AFTERNOON SESSION.

The committee met, pursuant to taking of recess, at 2.30 o'clock p. m.

The CHAIRMAN. At Mr. Slater's request I asked the Secretary of Agriculture to allow Mr. Rogers, of the Dairy Division, to come up this afternoon in order to present a color scheme which he has worked out. It will only take him a moment to do it, and inasmuch as he is anxious to return to the department, I would like to ask him to present his matter now.

STATEMENT OF MR. L. A. ROGERS, DAIRY DIVISION, UNITED STATES DEPARTMENT OF AGRICULTURE.

MR. ROGERS. Mr. Chairman, this little scheme we have here was devised simply to put into the hands of the creamery butter makers some simple standard by which they could color their butter to a uniform standard. It consists of a very dilute solution of potassium bichromate that gives the color of melted butter fat, and the degree

of color can be determined very accurately by comparing the tube of melted butter fat with those standard colors. Those can be made up very accurately, because it is a very dilute solution of a very stable chemical, the color can always be duplicated, and will always be the same.

The CHAIRMAN. Do you know whether this is substantially the same scheme as that described in the Danish law?

Mr. ROGERS. In the Danish law I believe they have a color standard, but they have certain standard colored papers, or cardboard, something of that kind. I have never seen those, but that is what I have been informed.

STATEMENT OF MR. COLON C. LILLIE, OF MICHIGAN, DAIRY FARMER, DAIRY EDITOR OF THE MICHIGAN FARMER, AND DEPUTY STATE DAIRY AND FOOD COMMISSIONER.

Mr. LILLIE. Mr. Chairman and gentlemen of the committee, I am opposed to the sale of oleomargarine as butter. I am convinced that it is practically impossible to prevent the sale of oleomargarine colored in imitation of butter as butter. Therefore I am opposed to the sale or offering for sale of oleomargarine that looks like butter.

If it requires the taxing power of our Government to prevent the manufacture of oleomargarine in imitation of butter, then I am not only opposed to the removal of the present tax of 10 cents per pound, but I am in favor of increasing the tax to such an amount that the manufacture and sale of this product will be absolutely prohibited. If you can do this without taxation, then remove the tax.

When a customer asks for butter and is sold oleomargarine instead, a gross fraud is perpetrated and it is an imposition as well. The oleomargarine may answer the purpose of butter, but it is not butter, and it lacks that fine aroma and exquisite flavor that good butter possesses. The chemist may tell you that oleomargarine is just as nutritious and just as digestible, and therefore just as good, as butter. But the same chemist will tell you that dried grass or hay is just as digestible and just as nutritious as green growing grass. But the cow that eats it knows better. She likes the grass better and she does better when allowed to eat it. This leads some of us—including the cow—to believe that a chemist can not tell, for instance, the effect palatability has upon digestion and assimilation.

The oleo people may argue from now to the coming of the millenium, they may swear expert chemists and the like, to prove that oleomargarine is just as good as butter. They may cause some people to believe that they think it is just as good, but they never will make the great mass of the consuming public believe that hog's lard and beef's tallow is as good as butter fat. The people know better.

Again, when oleomargarine is sold as butter a gross injustice is done to dairy farming, one of the greatest industries of this country; an industry that produces annually nearly or quite eight hundred millions of wealth; an industry that is doing more to-day for the permanent prosperity of this country than any other industry we have; an industry that always follows in the wake of the soil robber—the wheat grower, the corn grower, and the cotton and tobacco grower—and builds up the soil that they have exhausted.

This industry is to-day repeopling New England. It is restoring the producing power of the worn-out wheat fields of the Northwest. It is making two bushels of corn grow where but one grew before in the great corn belt. It would, if it were given the opportunity, make two bales of cotton grow where now only one grows in the cotton States. Encourage this industry and you lay the foundation for the future prosperity of this nation, because you lay the foundation for successful agriculture.

Every pound of oleomargarine that is sold for butter strikes at the very foundation of this great industry. You ask what effect the unrestricted sale of oleomargarine would have upon the dairy industry. I answer: How long could any industry endure if its products could be substituted by the products of another industry in which the cost of production was less than one-half? It is perfectly logical to conclude that unless adulteration and fraud were resorted to the industry in which the cost of production was greatest would soon be exterminated.

While the sale of oleomargarine as butter does injustice to the industry of dairying, compelling its sale by law for what it does no injustice to the cotton, the cattle, or the hog industry. We are asked to believe that the use of cotton-seed oil would be curtailed if the color was legislated out of oleomargarine, but as I understand it, cotton-seed oil is not used for the purpose of coloring oleomargarine, but for softening the hard, brittle tallow and other ingredients to give proper butter body to the product. Hence there would be as large a per cent of cotton-seed oil used in the manufacture of uncolored oleomargarine as in colored. So the cotton grower's market would not be restricted and no injustice done to his industry.

I am informed that the fat from winter-fed or stall-fed cattle makes a higher grade product than that from summer-fed or grass-fed cattle, although the fat from the latter is more highly colored. Consequently, in legislating color out of oleomargarine no injustice is done the great cattle industry of the country.

We are confronted with the fact that dairy products are higher than usual, but are they comparatively higher in proportion than the corn or oats or hay which the farmer must use? I think not. If you will investigate this subject, I believe you will ascertain that butter has fluctuated in price very closely with these foodstuffs. Comparatively speaking, butter and other dairy products are not excessively high priced at the present time.

It has been stated that if for any reason the sale of oleomargarine should be restricted or curtailed butter would advance enormously in price. I do not believe this. It would only be temporarily, at least, because the advanced price would stimulate the increased production of butter.

If you will settle this oleomargarine question, and settle it right, the investments in dairying in this country will be largely increased in the future. People are afraid to invest their money in dairy farming because they are afraid that oleomargarine may, through fraud, destroy their market. It is on the same principle that people are afraid to invest in certain kinds of manufacture when there is constant agitation of the tariff.

My experience in attempting to enforce pure-food laws warrants me, I believe, in saying that it is practically impossible to prevent

the sale of colored oleomargarine as butter. An inspector would have to be stationed continually in every shop where it is sold, which, in my judgment, would be impracticable.

Oleomargarine can probably be sold for what it is at a greater profit to the manufacturer than is now realized by the producer in the manufacture and sale of butter. There is a natural and legitimate demand for oleomargarine as such at proper oleomargarine prices. In my own home town one dealer sells oleomargarine in its natural color, and does not sell butter. People buy it for what it is, and seem to be satisfied. There is no attempt at deception. The price has not exceeded 18 cents per pound the past winter. Other dealers sell butter only. People buy this for what it is, and are likewise satisfied. In both instances people get what they desire and nobody is deceived or defrauded. I make no war upon oleomargarine when honestly sold. It has a field and a market of its own. But as a brother it has no right to wear Jacob's coat, and as a wolf it has no right to wear grandmother's cloak. In my estimation the oleomargarine manufacturer made a mistake in a commercial way when he first attempted to deceive people by selling oleomargarine as butter. He would have had a better market to-day than he does have and the whole business would be looked upon with greater favor by the public.

Give us a law that will enable all to readily distinguish between oleomargarine and butter. Give oleomargarine a tinge of yellow if you wish, so that people with false pride will not blush when they spread it upon their bread, but make the distinction clear, so that you and I, and everybody, can readily see that this is oleomargarine and that is butter. Give us this kind of a law, and both the dairy industry and the oleomargarine industry will be justly treated. All will have a fair chance and a square deal. Do this and you will see development in the dairy industry that will tend to reduce prices, and this development will add to the material prosperity of our country. Agricultural production will be increased all along the line. The railroads will fairly groan under the amount of freight to be carried, our factories will not want for raw material, and our farmers will do their best to produce good food in abundance and at moderate prices. I thank you.

STATEMENT OF MR. ANDREW FRENCH, DAIRY AND FOOD COMMISSIONER OF MINNESOTA.

Mr. FLANDERS. Mr. Chairman, I introduce Hon. Andrew French, of Minnesota, dairy and food commissioner of that State.

Mr. FRENCH. Mr. Chairman and gentlemen of the committee, I want to be so considerate of the positions which you occupy and of your feelings and disposition in this matter as to limit the remarks which I shall make here this afternoon to a very short period of time. I have sat here not because I was compelled to, as were you because of being members of the committee, but I have sat here with other friends of the dairy industry, so called, and those who are upon the other side of the proposition, so designated, here with pleasure, listening and learning, and I am satisfied that both the proponents and opponents of the so-called Burleson bill have secured information from those who have occupied the position of speaker before this committee at different times.

It appears to me, after the days and days you have given in attention and in consideration of this matter as it has been presented to you by the several gentlemen who have appeared on either side, that you are heartily glad that the hearing is drawing to a close. It can not fail to be otherwise, and I believe I can say for those who are here with us that we as well are not sorry that the hearing is gradually drawing to a close.

I believe that the information which has been imparted to you by those upon either side of the question here is going to be thoroughly weighed by you. If there are arguments that are worthy of consideration—and there certainly are from either side—they are going to have proper weight and consideration from your hands. That is all our people expect, or have any reason to expect.

There are only one or two matters, Mr. Chairman and gentlemen of the committee, that I desire to touch upon, and those are called to my mind because of some statements that have been made, one by the author of the Burleson bill, the gentleman from Texas, and one by a gentleman who represented a manufacturing concern, I believe located in Columbus, Ohio—matters that have been called to my attention, and I think that in order that an erroneous impression may not be raised in your minds they should be referred to, and perhaps some little information may be imparted to you that would clear the uncertainty, if uncertainty exists in the mind of any member of the committee.

We appreciate, of course, that this committee is made up of gentlemen from the North and from the South, from the East and from the West, and it is natural, of course, that those who are unfamiliar with other sections of the country will base their opinions upon statements that have been made by those who have addressed you in these hearings, gentlemen appearing from several sections of the country—some sections, of course, with the conditions of which some members will be unfamiliar.

One of the suggestions that I refer to is one that is contained in the quotation used, I think, by the gentleman from Texas, Mr. Burleson, in his opening remarks before this committee, to this effect, in substance, that this is virtually a contest before the legislative branch of this Government between the oleomargarine manufacturers upon the one hand, and what he pleased to term—or the term, at least, was used in the quotation he made—a “dairy trust” upon the other hand. In order to explain and clear up to the minds of the members of the committee that there is no existence of a dairy trust, that it is practically impossible to create a dairy trust under present conditions, or under conditions that may exist in the near future, or perhaps in the remote future, I want to go over with you briefly this afternoon, in the few moments I shall occupy, the present conditions in Minnesota. I do not know and do not care to claim that the dairy conditions in our State are materially different from what they are in other northern dairy sections of the Union. But we can use Minnesota as a concrete example, if you please, of the present conditions and the development that has brought about the present dairy conditions in the North generally.

Away back in the early years, when most of us were boys in knee breeches, or some kind of breeches, our family moved to Minnesota along with others who were then moving to the new West, and dairy-

ing conditions then—as those who are present here from the North will bear me out—were what might be termed now, and were termed by the gentleman from Columbus, Mr. Pirrung, “prehistoric;” I believe he used that term for this reason, there had been at that time no development of the present creamery industry. All of the dairy products that were manufactured, practically all, were manufactured upon the farm, generally by the housewife herself, or those who had charge of the household duties, in the manufacture of the butter that was required for the consumption of the family, sometimes in the manufacture of cheese that was required for the consumption of the family, the surplus, if there were any, going to the local stores or to some other source of distribution or disposal of the product.

Gradually there came a time when, because of the necessity, perhaps, for placing a part of the labor of manufacture upon some other shoulders, there developed there a creamery industry. That was a private creamery industry; that is, the concerns were under private ownership, ownership either of individuals or an association of very few individuals, properly and commonly denominated as private ownership of the creamery property. If there ever was a time, Mr. Chairman and gentlemen of the committee, when there existed or was opportunity for a creamery or dairy trust, that was the time in the experience of the Northwest and of the North generally, when private ownership of practically all of the creamery property of that section existed. That was years and years ago, and we look back upon that time now, away back in the seventies or early eighties. Gradually there was a development on the part of the dairymen of the Northwest, Minnesota, Iowa, part of Wisconsin, at least, of the idea that the farmers themselves, through their several associations, those who were the milkers of the cows, the producers of the raw material, could well afford to associate themselves together, establish their own plants for the manufacture of the finished product, and supervise it—in fact, to attend to their own business to a larger extent than they had in the past; that is, than they had in the past under the private ownership of the creamery industry. This brought about the development of what you have heard mentioned here, and of which some of you have considerable knowledge, no doubt, of the cooperative creamery, that creamery which is so common, perhaps more common in the State which I represent here this afternoon than in any other State of the Union.

If there is any possibility of a creamery trust, if there exists in the mind of any member of this committee or of any other person an idea that there is an opportunity for the organization, let alone the perpetuation, of a creamery trust by the combining of those several cooperative creameries, I want to say that that individual has not the proper conception of the average agricultural mind. It requires considerable ingenuity upon the part of the local cooperative creamery manager, as you can imagine and some of us well know, to conduct the business of the creamery itself in such a manner as to be generally satisfactory to the patrons of that plant. Then how much more difficult would it be to satisfy the individual members of these several creamery associations in the combining, or attempt at combination, of these several associations into one great organization, which you and I might denominate, and as some of them have denominated in their imagination, a dairy or a creamery trust?

The CHAIRMAN. I think you are quite right in the suggestion that it would be practically impossible to combine the cooperative creameries into a trust, but are not a great many creameries owned by corporations—and I am asking this wholly for information—and are there not some sections of the country in which those creameries are brought into combination to such an extent as practically to constitute a trust, using that term loosely, in its common acceptation? For instance, in southern Iowa, I think Mr. Haugen, a member of the committee, remarked the other day that there was a condition existing as a result of the combination of creameries whereby the farmers of that section of the State were paid several cents a pound less for their butter fat than they receive from the cooperative creameries in other parts of the State.

Mr. FRENCH. Mr. Chairman, I want to say personally in reference to that matter that I have no knowledge of the conditions as they exist—that is, specific knowledge of the conditions as they exist—outside of the State of Minnesota, that having been my home practically all of my life, and my attention and observation being confined almost absolutely to the section in which I have been pleased to live. But I will come to that matter in just a moment.

I do not want you to assume for a moment, or to let these hearings close with the idea, that the creamery industry of Minnesota is made up altogether, so far as the manufacturing plants are concerned, of cooperative institutions. It is not. I presume that approximately three-fourths of the butter-manufacturing plants of our State are owned, controlled, and operated by cooperative associations. There are, however, scattered all over the State, in the older as well as the newer sections of the State, the private individual who owns his own creamery plant and operates it, generally operates it fairly successfully—thoroughly successfully in many cases.

There are, in addition to the cooperative and the private plants, what are termed “centralizers,” located in Minnesota—successful centralizers. That is, they are these large churning plants which you have heard referred to here during the hearings from time to time located in the larger centers of the State, the receipts at those plants being made up altogether, or very largely, of cream that is shipped in over the several railroad lines converging at that point.

Mr. LEVER. What is the exact difference between the operation of the cooperative creameries and the centralizers, as you call them?

Mr. FRENCH. I shall be glad to give you any information I can. I appreciate the fact that the gentlemen here on the committee, without any exception, I think, have sat here patiently and have endeavored to get all the information they can, and, so far as I am able to give any information along the line I am endeavoring to follow, I shall be glad to give it.

The cooperative institution is made up of the individuals who milk the cows—that is, who are not conceded to be by our friend, the gentleman from Texas, as dairy farmers, but they are the men who really milk the cows, whether they are properly denominated as dairy farmers or not. They are men who keep one class of dairy stock or another, or keep what is called the “general-purpose cow,” the cow that may, perhaps, produce a calf, that may produce a fairly good quantity and quality of beef when matured, and, at the same time, a cow that may produce a fairly good quantity and quality of milk.

Mr. SHILLING. Tell him how the stock is conducted, how much stock each farmer can hold, and how he has to forfeit it.

Mr. FRENCH. I will not go into detail, but I want to give Mr. Lever and other gentlemen of the committee an idea of the organization and conduct of the business. It is merely a voluntary association, in a sense, of the several members of the agricultural communities of that section who desire to associate themselves for the manufacture of the raw material into the finished product that is denominated butter, or, in some cases, cheese. Capital stock may or may not be issued; sometimes it is and sometimes it is not, as the several owners or members of the association may decide to organize. But the ultimate working out of the plan is that each member of the association is entitled to one vote in the conduct of the business; that is, in the several annual meetings of the association, vesting, of course, the control of the plant in a board of directors, the same as with companies organized as corporations. Of course, this is virtually a corporation under the laws of the State, and is operated as such. It may sue and be sued, as other corporations may be. Some are conducted altogether on what is known as the whole milk business; that is, each of the patrons bringing to the plant the milk from the cow practically fresh, and others bringing in, perhaps, the hand-separated cream that has been separated on the farm. In others the receipts of the plant are made up altogether of the hand-separated cream. Then, in the operations of the plant, this policy is pursued. You will take it that where the several members have invested their funds, perhaps practically equally in amount, it matters little to you or me if we are members of that association how we receive our returns, whether a dividend is declared annually or at stated periods on the stock, or practically the entire earnings of that plant are divided into payments for the raw material itself.

There are some of those plants in which dividends have not been and probably never will be declared, the members being thoroughly satisfied among themselves to accept full payment, so far as the association is able to pay them, for the raw material delivered. That is, the raw material is manufactured and a monthly settlement is made with the members of the association, the dairymen who compose it, and others, perhaps, who are not members of the association, who accept the opportunity of coming in upon equal terms. Monthly settlements are made and payment made for the raw material in full. When I say "in full" I mean all the moneys received for the month for the manufactured products placed on the market and sold, less the cost of operating the plant and maintaining it in proper condition to be operated, necessary repairs and everything of that kind being covered. So that it is virtually a voluntary association of the dairymen of that immediate section to combine, place the raw material at an important point, manufacture it, place it on the market, have it sold, and the returns divided pro rata among the members of the association.

The chairman referred to the question of the centralizers, and some sections of the country being claimed to have been placed almost absolutely under the control of this centralized influence and interest. Whether this be true or not in any other State, it is not in Minnesota. We have, as I say, several large churning plants, so-called centralizers, located in several cities in Minnesota, cities and larger towns. In proof of the fact that there is not existing, at least in our section,

what sometimes we hear termed a community of interest, even among these larger centralizers, I want to state this, that practically all over the State, except where the cooperative local creameries are especially strong and heartily supported, so that a reasonably strong price can be returned for the raw material, these centralizing interests, the owners of these large churning plants, have cream buyers, so called, out at the several railroad stations.

From other stations, where there is no buyer located for one reason or another, shipments are sometimes made by individual dairymen from that section. At these several stations, where these cream buyers are located, I think it is fair to assume that if there were a community of interest existing between these different owners of these centralizer institutions, these large churning plants, you would not commonly see two or three or four buyers representing the different institutions. We must realize that it is a large item of expense in the operation of these large churning plants, centralizing plants, to keep agents in the field; that is, when I say "in the field" I mean at these local railroad stations, to buy from the individual dairyman the supply of the raw material. So that if there were a community of interest existing between the centralizers in our State, located in the southern and central, the eastern, the northern, the northeastern, and the northwestern parts of the State, as they are, it would seem to me, and it certainly would seem to you, Mr. Chairman and gentlemen, that it was not the part of wisdom on the part of these representatives of these large concerns to practically divide the territory, as other trusts are accused sometimes of dividing territory and holding the farmer up upon the price. So that it is evident to me—if I had no further evidence—that there is not a community of interest there to that extent that they are dividing in a territory, but each is reaching out, going out to the limit, if you please, and securing all the raw material he can, even if he secures it from his competitor, his neighbor centralizer in the same city. That condition exists, and it is evident to me, Mr. Chairman, and I think would be to any other man, that as long as that condition does exist—and it does in our section of the union, Minnesota—that there is certainly not that community of interest that generally exists where there is a large trust organized, and these several institutions compose the individual members of that trust.

To refer to the matter which was brought up by Mr. Pirrung, of Columbus, when he used that term, "the prehistoric methods" of the creamery butter manufacturer, I am willing to be quoted as saying—not that I am a butter manufacturer, because I am not, but I have been observant and observing of all of the developments, practically, that have taken place in the dairy industry of Minnesota; lived upon the farm, assisted in milking the cows, and delivering the milk and cream to the local creamery—I am willing to go the limit in saying that there has been as much, as marked, and as progressive a development in the dairy industry as in any other industry on the face of the earth of which we have any knowledge.

Since away back in the time I first mentioned, when our mothers and sisters manufactured the butter and the cheese on the farm, continual progress has been made in the manufacture of butter and cheese. First, we had the gathered cream system, the system I mentioned first, the gathered cream system under this individual ownership of

the several creameries. Teams and wagons were sent out here and there over the section where any cream was to be had; it was gathered up and the farmer was satisfied, at least he accepted the price made to him by the owner of the plant. Naturally enough what we now would perhaps consider crude methods were employed in the manufacture of the butter, and perhaps not as high a quality as you and I would wish to consume now was used. But the watchword has been "progress" all along the line. Gradually it came down to what was known as the box churn in the creamery and the hand butter worker simply churning the butter in this churn and putting it on the table and working it out, in the place of the old ladle our mothers used to use. That became obsolete years and years ago, and I think I am safe in saying that there is not now in Minnesota what was called, fifteen or twenty years ago, a modern element of the equipment that made up the creamery plant, the box churn, and the hand worker. Now, we have the combined machine, the combined churn and worker, in which the cream is placed, the churning is done, and the butter is worked, ready to remove from the churn and place in the receptacle that brings it to your market, or ought to bring it to your market, and probably would if it were not for the fact that the butter has been displaced by a product that is claimed to be as good, probably is as good to some people, as the butter itself.

At the present time there is a general movement, and has been for months, yes, for years, for a still greater improvement, not only in methods of manufacture, but improvement, so far as it can be brought about, in the quality of the finished product put out. Inventive genius is as busy along dairy lines as along other lines, and to the centrifugal cream separator that is in common use practically over Minnesota, the combined churn and worker, has been added pasteurizing apparatus in a large number of plants in Minnesota, with the purpose of improving the quality, as far as possible, put out from those creameries. So that when our friends, the enemy, refer to prehistoric methods in the manufacture of dairy products—when I say "dairy products" I mean butter and cheese—in the manufacture of dairy products there is as much progress being made, as much inventive genius being exercised, and as much money being expended in developing improvements in apparatus that will still further improve the quality, if possible, and still further improve the efficiency of the plant, as in any other similar line.

Gentlemen, I have passed as rapidly as it was possible for me, though perhaps not as rapidly as some other ready speakers, to go over the subject with you. I wanted simply to do that because I feared impressions might rise in the minds of some as to the methods employed and the conditions as they have developed and exist in one of the best dairy States in the Union.

The farmers in that section of the Union, Minnesota, are, as you will conclude from the remarks I made here, the owners of the butter manufacturing plants in that section. As was suggested by the gentleman, I think, who last preceded me, Mr. Lillie, of Michigan, I want to say for the farmers of our State, they are not expecting favors, not expecting bonuses, not demanding or expecting anything of that kind from the hands of you gentlemen on this committee, or from the hands of either branch of the National Legislature. All they are

asking and all they are expecting is an opportunity to manufacture their products themselves, as they are doing now, better if they can, and they will if they can place it upon the market upon its feet, every tub of butter upon its own bottom, if you please, and not be compelled to go up against any competition that is not absolutely fair.

I want to say for the dairymen of Minnesota, the creamery butter and cheese manufacturers out there, that if they can not go up against fair competition and win out, they are willing that the fittest shall survive; they are not asking for anything that is not fair. Neither they nor I have any prejudice against oleomargarine as oleomargarine. We simply ask that oleomargarine shall do as butter does, go before the consuming public in its true light; go to the consumer, if you please, in its true form, and in its true light, so that the consumer can make his own choice, buy oleomargarine and consume it if he wants it. I expect that right; I have that right, and you have the same. We can expect nothing more, but we certainly have a right to expect and even demand that, and if the farmers and dairymen can not survive in a contest of that kind, we are willing to let the manufacturers of oleomargarine have the field, whether or not they call it the dairy field, among the consumers of dairy products, including oleomargarine among dairy products, as they have seen fit to attempt in this hearing. But we are willing to give the consuming field to the manufacturers and distributors of dairy products if we are going to waver in the field and can not win out. Gentlemen, if I have passed over anything, or you suspect I have any other information you want—although I know you are heartily glad to close this hearing—I shall be glad to give it.

Mr. BEALL. Is there a color law in Minnesota on oleomargarine?

Mr. FRENCH. There is; yes, sir.

Mr. BEALL. How has it worked in that State?

Mr. FRENCH. I would say fairly successfully—only fairly successfully.

Mr. BEALL. Do you think it has been as well enforced as laws ordinarily are? None of them are enforced absolutely; there are violations of all.

Mr. FRENCH. Being one of the food control officials, I want to plead guilty when I say that I think the color oleomargarine law, or the oleomargarine law, so far as the color applies, is not as well enforced in Minnesota as other laws generally are.

Mr. BEALL. Do you know how much oleomargarine is sold in the State of Minnesota?

Mr. FRENCH. I do not.

Mr. BEALL. Have you any statistics as to the amount of creamery butter that is sold; any statistics on that subject at all?

Mr. FRENCH. I can not say we have statistics as to the amount of creamery butter or other butter that is sold or consumed in Minnesota.

Mr. BEALL. Have you any statistics as to the amount of creamery butter that is made in the United States? I understand that data has been given as to the total production of butter, but I would like to know about how much of the creamery butter is made.

Mr. FRENCH. I would prefer, Mr. Beall, that you do not spread me over quite so much territory, because you can spread me out pretty thin.

Mr. BEALL. Do you know anybody likely to come before the committee who would probably have that information?

Mr. FRENCH. I hardly know to whom to refer you to give you the information covering the production of creamery butter in the United States. I will say, however, we manufacture in Minnesota, in round numbers, something from ninety to one hundred million pounds.

Mr. BEALL. Nearly as much as the entire output of all the oleomargarine factories?

Mr. FRENCH. At present; that is based on the statements that have been made here. I assume they are correct.

Mr. BEALL. Are there any other States that probably produce as much creamery butter as Minnesota?

Mr. FRENCH. Wisconsin, probably; Iowa, and, perhaps, Illinois produce it, although it does not approach that.

Mr. BEALL. Then it is safe to assume that the total production of creamery butter would amount to several hundred million pounds a year?

Mr. FRENCH. Yes, sir; it is safe to assume that.

Mr. BEALL. Do you know to what extent the production of oleomargarine has increased during the last three years?

Mr. FRENCH. I think the best reply I could give to that would be the figures that have already been presented here before this committee, and with which I think all members of the committee are as thoroughly familiar as am I.

Mr. BEALL. According to my understanding, this creamery butter is made in what might be termed butter factories?

Mr. FRENCH. Yes, sir.

Mr. BEALL. The product out of which it is made comes from the farm, chiefly?

Mr. FRENCH. Yes, sir.

Mr. BEALL. The oleomargarine is made in factories also?

Mr. FRENCH. I assume it is; yes, sir.

Mr. BEALL. The products that enter into the manufacture of oleomargarine, the chief products, are all produced likewise on the farm?

Mr. FRENCH. I think that, generally speaking, they are.

Mr. BEALL. You said you had no war to make on oleomargarine, that all you want is that it shall be sold as oleomargarine?

Mr. FRENCH. Yes, sir.

Mr. BEALL. I think that is all anybody on the committee wants. If it is sold they want it sold as oleomargarine.

Mr. FRENCH. I beg your pardon right there, Mr. Beall. You correctly quote me when you say that all the dairymen expect or ask is that the consumer shall know when he purchases an article of that character and consumes it, whether he is consuming oleomargarine or butter, and we would be satisfied with that condition.

Mr. BEALL. Do you not think that the purchaser should be protected in some other way than by forbidding the manufacturer of oleomargarine colored any shade of yellow?

Mr. FRENCH. As fully protected, you mean?

Mr. BEALL. Reasonably protected, fairly protected. There would be instances, probably, where it would be impossible to protect him, but do you not think he could be fairly protected?

Mr. FRENCH. I do not. But I want to add right there that I think that not only the consumer would not be protected—

Mr. BEALL. I am talking about the purchaser.

Mr. FRENCH. But I was going to say there would be thousands of purchasers who would not be protected.

Mr. BEALL. If you have a law that would forbid the sale in unbroken packages?

Mr. FRENCH. I want to say in reply to that, would that law be very difficult of infraction?

Mr. BEALL. It would be, probably, a difficult law to enforce; so would the color law be a difficult one; any law that might be passed would involve some difficulties in its enforcement, and there would be violations of any kind of law that might be passed here, just as there are violations of all kinds. If it is put up in the sized packages that have been mentioned here, with revenue stamps upon it, with a provision forbidding sale in unbroken packages, with a requirement that every package should be clearly marked, not only on the product, but on the wrapper, do you not think that that would be a fair protection to the dairymen?

Mr. FRENCH. It might, perhaps, be more of a protection than the dairyman has at the present time. But, as I stated before, I see no reason to believe, if a man desired to violate that law, why there would not be ample opportunity for him to remove the covering from that package and impose on the ultimate consumer and the final purchasers of the products.

Mr. BEALL. That temptation exists now, I understand, in the matter of tobacco. Do you know whether there are very many violations of that?

Mr. FRENCH. That is very true; that temptation does exist regarding tobacco.

Mr. BEALL. It is violated.

Mr. FRENCH. But it would be a difficult matter for you or me to be deceived in the purchase of a cigar or of a package of what was supposed to be composed of tobacco.

Mr. BEALL. As I understand it, the only test, the only dividing line that you have to suggest, is the dividing line on color?

Mr. FRENCH. I think that is the best dividing line that has ever been suggested, Mr. Beall.

Mr. BEALL. Let me ask you this question: Do you not think that one reason that that dividing line is suggested is that it would have a tendency to reduce the production of oleomargarine?

Mr. FRENCH. I do not.

Mr. BEALL. You do not think it would?

Mr. FRENCH. No, sir.

Mr. BEALL. Did it not have that effect immediately after the passage of the Grout law?

Mr. FRENCH. I can not say whether it did or did not; it is true, undoubtedly. Figures and facts bear us out in the statement that the production or consumption of oleomargarine was curtailed following the passage of the so-called Grout law.

Mr. BEALL. Do you not think it would be again?

Mr. FRENCH. Mr. Chairman and gentlemen of the committee, I can hardly see why an answer yes or no to that question is material here. My individual opinion regarding that, it seems to me, would be of very little value to the committee.

Mr. BEALL. You are experienced in the dairy business, and you know something about the sentiment among dairymen. Let me ask you this question: Is it not very largely true that the dairymen want some law that will keep down, just as far as they can, the competition between the dairy product and the oleomargarine?

Mr. FRENCH. It is true only so far as colored oleomargarine goes, Mr. Beall. As I said, when I attempted to conclude my statement here, all that the dairyman wants—and when I say the dairyman I mean the dairyman generally—all he desires is a chance for a fair field, fair competition with oleomargarine, and he never has it, and never will have it with colored oleomargarine.

Mr. BEALL. Can you give us any idea as to the amount of oleomargarine that is colored now, that is sold in violation of the law, that is sold for butter instead of being sold for oleomargarine?

Mr. FRENCH. I can not do anything but approximate in pounds the amount.

Mr. BEALL. Do you think it is a large percentage?

Mr. FRENCH. I certainly do.

Mr. BEALL. A large percentage actually sold as butter?

Mr. FRENCH. I do not want you to think that a majority of the number of pounds is sold as butter, but I am satisfied in my own mind, from my experience as a food-control official, that there are certainly thousands of pounds sold in practically every State in the Union in violation of state law.

Mr. BEALL. You will concede that there are a great many people who are willing to use oleomargarine?

Mr. FRENCH. I certainly would concede that.

Mr. BEALL. You concede that a great majority of them would prefer to have it colored rather than uncolored?

Mr. FRENCH. I will not concede that.

Mr. BEALL. You do not think that is true?

Mr. FRENCH. I do not know whether it is true or not.

Mr. BEALL. What is your judgment about it?

Mr. FRENCH. My judgment is that if a man prefers colored oleomargarine he would prefer to purchase colored oleomargarine. He may care very little about the color, and I know that is true about some consumers of butter; they care very little about the color, if they have the quality and the grain and the right quantity, and they are pretty thoroughly satisfied if it is a very pale yellow.

Mr. BEALL. I am not talking about the exceptional case. The great majority of people who use butter prefer yellow butter, do they not?

Mr. FRENCH. They prefer a fairly yellow butter, yes, sir; not a deep color.

Mr. BEALL. It is sort of a matter of education, habit, whatever it is, but for some reason they prefer it?

Mr. FRENCH. Yes, sir.

Mr. BEALL. Do you not think the majority of the users of oleomargarine would also prefer the yellow oleomargarine?

Mr. FRENCH. They might prefer yellow oleomargarine to white oleomargarine; I say they might prefer it.

Mr. BEALL. That was the question I was asking you a while ago. Do you not think the man who wants oleomargarine and wants it yellow ought to have the right to go to the store and buy from the

merchant oleomargarine as oleomargarine, and yellow oleomargarine, if he wants it?

Mr. FRENCH. Not as long as there is opportunity there—and there always would be—for fraud to be practiced on the man who did not want oleomargarine; there always would be that opportunity so long as there was no color distinction between the two products.

Mr. BEALL. You are speaking for the man who might want butter, and who would be defrauded by being given oleomargarine; that is the man you are interested in?

Mr. FRENCH. I am interested in every consumer equally.

Mr. BEALL. And producer?

Mr. FRENCH. Equally.

Mr. BEALL. Equally?

Mr. FRENCH. I could say equally, except as my individual interests are with one and not with the other.

Mr. BEALL. Your individual interest is with the producer of creamery butter?

Mr. FRENCH. Certainly.

Mr. BEALL. Then you are not equally interested in the consumer?

Mr. FRENCH. I do not know why I should be equally interested. Where my pecuniary interests lie I am naturally more interested than where they do not lie.

Mr. BEALL. That is the point I wanted to bring out. Your statement was you were equally interested, as I understood it. You are not willing, because of the danger of fraud upon some unsuspecting consumer, for this other man, who wants the oleomargarine and wants it yellow, to go into the store and buy what he wants.

Mr. FRENCH. I am not willing to be placed in the position, Mr. Beall, of advocating or assenting to the passage of any bill into a law that will make fraud not only possible but certain.

Mr. BEALL. Is it your interest in protecting the consumer against fraud that makes you take that position? We all have selfishness in our natures.

Mr. FRENCH. I am glad to have that admission made, Mr. Beall.

Mr. BEALL. It is impossible for a man to separate himself entirely from his selfish interests.

Mr. FRENCH. Absolutely.

Mr. BEALL. Now, do you not think it is more the selfish interest that a man may have in a product that he is interested in that might induce him to say that there was no dividing line that is safe, except the color line, in oleomargarine?

Mr. FRENCH. You say more than the other; more a selfish interest on the one hand?

Mr. BEALL. Do you not suppose that it might be this selfish interest prompting him to say that that is the only dividing line, rather than the interest in the consuming public?

Mr. FRENCH. It might be in the case of some; perhaps 49 per cent on the one hand and 51 on the other.

Mr. BEALL. You do not know which side the dairy people are on—whether they would be with the majority or with the minority?

Mr. FRENCH. Mr. Beall, in reply to that I want to say this, that not only am I identified with the dairymen of the State in a private capacity, but I am also somewhat identified in an official capacity with the food-control elements of our State, and my observations in

that work, particularly with reference to this product, oleomargarine, are that if you are going to protect the consumer against fraudulent sales of that product, you have to differentiate in the color, and my judgment is that the consumer can have no adequate protection in any other way.

Mr. BEALL. But you would not be willing to try the other plan that has been suggested?

Mr. FRENCH. Have we not tried that plan for several years?

Mr. BEALL. I do not think you have.

Mr. FRENCH. I think we have.

Mr. BEALL. Put up in packages of 1, 2, and 3 pounds?

Mr. FRENCH. We have had it put up in all kinds of packages in Minnesota, and lots of those packages have gone as butter.

Mr. BEALL. You have had it put up in bulk?

Mr. FRENCH. Yes, sir.

Mr. BEALL. Where they could ladle it out of the tub?

Mr. FRENCH. And they do.

Mr. BEALL. Suppose it is all put up in 1, 2, or 3 pound packages, and wrapped with a revenue stamp—I concede there would be an occasional violation—do you not think it would serve the purpose of reducing frauds to a very great degree?

Mr. FRENCH. It would perhaps reduce the fraud below what is common at the present time, but I can not believe it would approximate that protection that would be brought about by an elimination of the color—that is, a practical elimination of the color.

Mr. BEALL. If you have that elimination of the color the law would still be violated; there would be moonshiners, just as there are now?

Mr. FRENCH. Undoubtedly.

The CHAIRMAN. You have that elimination of the color now under your State laws?

Mr. FRENCH. Substantially so, Mr. Chairman; yes, sir.

The CHAIRMAN. You stated in answer to Mr. Beall's question that that law you thought was more frequently violated than other laws?

Mr. FRENCH. Generally speaking, I think that is true.

The CHAIRMAN. To what do you attribute the frequent violation of that law, in the face of the fact that you have a distinct color line?

Mr. FRENCH. I want to say, Mr. Chairman, frankly, that the distinct color line, so called, is not drawn in Minnesota; that is, to the same extent that it is in some of the States from which the gentlemen have testified before this committee.

The CHAIRMAN. Is that the fault of the law or the construction put upon it?

Mr. FRENCH. It is the fault of the construction put upon it. It is not by the dairy food commissioner, however.

The CHAIRMAN. Does the law of Minnesota use practically the language of the law of Wisconsin, prohibiting the manufacture or sale of oleomargarine in any shade of yellow?

Mr. FRENCH. Somewhat similar. I can not quote either of them verbatim, but the intent of the law as passed was similar to the intent of the law in Wisconsin.

The CHAIRMAN. Are you familiar with the language of the McHenry bill in that respect?

Mr. FRENCH. I do not know that I could repeat it, but I have heard it quoted several times before the committee.

The CHAIRMAN. I will quote you just a line now:

For the purposes of this act oleomargarine made in any shade of yellow, either by artificial coloring or by the ingredients used in its manufacture, shall be classified as "colored oleomargarine."

Mr. FRENCH. It is not substantially like that.

The CHAIRMAN. Your law is not so clear and strong as that?

Mr. FRENCH. It is not so specific as that; no, sir.

The CHAIRMAN. You think, then, that the reason your law fails of effectiveness is because it is not sufficiently emphatic in drawing the color line?

Mr. FRENCH. It is not sufficiently emphatic in drawing that line, and not so specific in the manner in which it is drawn as to be susceptible of what we call the right interpretation of it.

If there are no other questions I will close. I have occupied now more time than I had hoped or expected or wanted to consume. I thank you heartily.

STATEMENT OF MR. OSCAR ERF, SECRETARY OF THE OHIO STATE DAIRYMEN'S ASSOCIATION; ALSO REPRESENTING THE JERSEY CATTLE CLUB AND HOLSTEIN-FRESIAN ASSOCIATION OF OHIO.

Mr. ERF. I am representing the Ohio State Dairy Association, of which I am secretary, the Ohio Jersey Cattle Club, and the Holstein-Fresian Association, of that state.

Indirectly I am also here to represent the interests of the people who keep 1,000,000 cows on approximately 250,000 farms in the State of Ohio. These people demand justice and condemn the present fraud that is perpetrated on them by the oleomargarine people. They are opposed to any legislation that would still more open the breach and allow oleomargarine to be sold as butter. This would seriously handicap the agricultural interests of our State, as well as the consuming public, for what affects the dairy interests would ultimately affect the crop-producing power of our soil. We depend upon the cow as the redeemer of our soil, and without her it would ultimately cost the poor people more to live than it does now, for as the production of the soil is reduced the cost of raising crops is increased.

This is no theory, for it would be well to cite you to the results of years of trial and practical experiments in foreign countries where the soil has been cultivated for centuries. Dairying in these countries has become an absolute necessity. Very little agricultural work is carried on without dairying accompanying it. Gradually as the population increases economic conditions must be brought about for the food supply of the people. And it has been the experience of the older parts of this country, as well as foreign countries, that as the population increases the cow gradually takes the place of the meat animal. Because first, she is an economical food producer, and second she becomes the most potent factor in cheapening the cost of production of cereals or crops. This statement might seem strange, but if you will realize that the average good cow produces from six to seven thousand pounds of milk per year, and the lowest limit of the per cent of solids in milk being 12 per cent, she therefore must produce from 720 to 840 pounds of dry matter, every ounce of which is palatable and digestible without further preparation. A beef cow produces a

calf at the end of the year; if this calf has made good average gain it will weigh about 700 pounds live weight; dress this carcass, prepare it for the table, and reduce the edible meat to dry material on the same basis as that of milk, and you will have left from 90 to 100 pounds of material, compared with 720 produced by the cow. This is why the poorer classes of people in Europe can not afford to eat meat, and as a matter of fact it becomes a luxury for the reasonably well-to-do people. These people depend upon dairy products and cereals and vegetables chiefly for their existence.

But why should the dairy cow cheapen the cost of production may be a question in your mind. Briefly it is this: A ton of wheat removes from the soil approximately \$8.60 worth of fertility. A ton of corn would approximately remove \$6.50 worth of fertility, but the production of a ton of butter made from the feeds grown on the farm, and the waste returned to the soil, would remove about 36 cents worth of fertility. As a rule, however, not all of the feeds are raised on the farm that the cow consumes; the larger percentage of the concentrates of her feed ration are purchased, and whenever a feed is purchased it means that a certain amount of fertility is purchased; for instance, if a farmer purchases a ton of cotton-seed meal he will have purchased according to analyses about \$21 worth of fertility, this being estimated on a basis of the present cost of fertilizers. The cow removes on an average but 10 per cent of the fertilizing constituents of any feed for milk production, consequently the balance may be taken directly to the soil.

Owing to the fact that the cow has the power of converting feeds into milk with such great economy it therefore becomes good policy to feed her the rich, high-priced feed which can not be fed economically to the beef animal. Therefore, the value of the manure from the cow is always greater and frequently worth from 20 to 40 per cent more, according to the feed fed, than that of the beef animal. Thus the cow becomes a necessary adjunct to agricultural operations on soil that has been cultivated for years, for she becomes instrumental in allowing crop production to be carried on almost indefinitely without the losses of fertility, and if the work has been carried on scientifically she will gradually enhance the fertility of the soil.

Therefore, any legislation that would compel the farmer to do away with or to decrease the number of cows on the farm would seriously interfere with the economic food supply of the future. In order that you may carefully investigate the profits of the dairy and the cost of producing a gallon of milk and a pound of butter, I will submit to you a brief synopsis of the report that I have prepared for the food-probe committee of the senate of the Ohio state legislature, which is as follows:

The basic principle for the economic production of milk depends largely upon the cost of feed. Since feed is ultimately converted into milk, if the cost of feed increases, the cost of milk must necessarily increase, other things being equal. It is the belief of the greater part of the consuming public that the enhanced price of milk is nothing more than an increased profit to the producer. While it is true to a great extent that the average dairyman produces all the roughages which his animals consume, very few on the other hand produce many of the concentrates. Therefore one-half of the feed consumed by the animals of the average dairyman must be purchased directly or indirectly from mills or other manufacturing concerns. In fact the average dairyman produces milk on a smaller margin at 16 cents per gallon to-day than he did at 9 cents or 10 cents per gallon fifteen or twenty years ago.

The increased cost of food is due largely to the loss of soil fertility. Nature abundantly provided the past generations with soil fertility, but this is now rapidly becoming exhausted. In order to raise a crop of similar yield it requires the use of commercial fertilizers or of barn-yard manure. The application of these materials is expensive and the cost must apply to the yield. Commercial fertilizers as well as manure must be used judiciously or the maximum results can not be obtained; hence, a superior knowledge is required in handling this material. A low yield with the increased cost of production will put a decided increase upon the ultimate cost of feed. As an illustration, I have in mind a man who had two fields of corn the past year, one yielded 25 bushels per acre and the other yielded approximately 85 bushels per acre. Figuring a slight increase in the cost on the 85 bushels per acre, this man found that it cost him approximately 36 cents to produce a bushel of corn on the field that yielded 85 bushels per acre, while it cost him 59½ cents to raise a bushel of corn on the field that yielded 25 bushels per acre. Since corn is one of the basic feeds in milk production I give this illustration that the reason for the advanced price of feeds may be understood. From this fact we may reason that the price of feeds will continue to increase if many of the present practices of farming are continued.

Our figures for calculating the cost of keeping a cow have been derived from a great many different sources and from all parts of the State, and while conditions vary somewhat we have endeavored to give the maximum, minimum, and average costs of each item which enters into the production of milk.

Feed.—The first and all important item in the cost of keeping a cow is the feed. The farmer must charge to the animal the feed according to the market prices, minus the cost of transportation from the farm to the market. This is only legitimate to the producer, who may also be the farmer. We have records of feed costs for one cow for one year ranging from \$92 down to \$40. I might state that the high feed cost was due to the fact that this particular class of dairymen were obliged to buy their feeds since they had no farms in connection with their dairies, and were therefore obliged to apply transportation expenses. The cows charged up with the low feed cost are those that freshened early in the spring and were pastured on waste land, which was thosed up to them at the rate of 25 cents per month per animal, the cows being properly fed on roughage and concentrates during the winter months. These animals have never been found to be profitable except in instances where considerable roughage has been fed and where the roughage has been especially prepared by cutting and mixing with palatable concentrates and in some cases by steaming. In such a case the probable feed cost would be a little less than \$40 per cow per year. These cows, I might state, were producing milk profitably, but the extra expense of labor and fuel had to be applied to the cost of keeping the animal, which again brought up the expense.

Cows can be kept and milked at a profit a greater part of the year only in localities where the price of pasture is extremely low owing either to the low price of land or to the low rate charged for the rent of pasture, which in some cases has been fixed by custom, the owner not figuring how much it really costs him to maintain the land. In the production of milk it must be understood that a uniform supply should be produced throughout the year. If a man supplies a certain trade, this trade will demand milk steadily the year around; hence winter dairying must necessarily be practiced, and the cost of feeding a cow in the winter is above that of the cow that produces milk for summer consumption. Therefore, we are obliged to charge to the average profitable cow for 1909 a feed cost of \$59.40.

Labor.—The labor item is the next important item that enters into the cost of milk production. This, again, varies greatly, for in this State we have a number of cases where labor charges amount to about \$49.80 per cow per year. This, of course, applies to the production of certified milk. However, we have many cases where the actual labor cost of ordinary market milk runs up as high as \$36 per cow per year. We also have figures from this same class of dairies showing a labor cost of only \$18 per year per cow, and this from dairymen whom we consider are producing milk with a fair degree of cleanliness. We know of many cases in which the feed cost is lower than this. In fact, we have cases where it is as low as \$7 per cow per year, from men who milk their cows on the leeward side of a barnyard fence, in a manure yard, and who generally milk into galvanized-iron or wooden pails, which they never pretend to wash. These men milk with hands that are unclean. The cows generally have filthy udders, which are probably gargety from the result of filth. We know that such conditions exist at the present time, but we have never found a man that could produce milk that we would consider sanitary at a lower labor cost than \$18 per cow per year. The average cost to-day amounts to about \$24.

Interest on the investment.—The interest on the investment is probably the next item of importance. Values of cows differ greatly. Cows may be bought at the present time for as low an amount as \$35, but there are very few profitable cows on

the market at the present time that will sell for less than \$60. I have reference to grades only. Pure breeds are much higher in value. Figuring 6 per cent interest on this investment, it amounts to \$3.60.

Deterioration by age.—We will next mention the deterioration in value of the animal by age. We are assuming now that the cow has a value of about \$60 at the age of 5 or 6 years. Gradually as the animal grows older her value decreases until she gets to be about 13 or 14 years old, when she becomes, as a rule, unprofitable, and if sold for beef is very seldom worth more than \$35. This would be a loss of approximately \$25, which, distributed over the eight or nine years, amounts to about \$3 per year, which would be the deterioration in value of a good dairy cow. As a rule, cows are sold at an earlier period; therefore the loss on the investment is less. We have taken the figures as given in statistics which we have accumulated, and have allowed for deterioration by age about \$2.50 per year.

Loss by death or disease.—Loss by death or disease is a factor which is quite difficult to determine, as it varies greatly, and we have been able to get statistics only from well-regulated dairies, where this loss is generally at a minimum. We could cite individual cases where this loss amounts to as much as \$13.25 per cow per year, but gathering our estimates from average good conditions we find that this loss amounts to about \$1.50 per year.

Failure to breed.—Failure to breed is another item which varies greatly according to the prevalence of the disease known as abortion. Loss from this can hardly be estimated. In some individual cases it has been found to be as high as \$8 per cow per year. In well-regulated dairies, where proper precautions are taken to disinfect the animals and where the stables are regularly disinfected, this item is reduced to 25 cents per cow per year.

The cost of bull service.—The cost of bull service depends entirely upon the animal used. At the present time in well-regulated dairies no service can be considered as costing less than \$5, but with an ordinary grade bull \$1 is the minimum. The dairyman may have a grade bull that has value enough to breed and the average service may be considered to be worth about \$2 per cow per year.

Interest on the value of the cow barn.—The interest on the value of the cow barn is an item that again varies according to conditions, but estimating the present value of building material, no barn can be built with the proper degree of sanitation and storage space provided for feed for the animal for less than \$50 per cow. Six per cent interest on this investment amounts to \$3 per year.

Straw for bedding.—Straw for bedding is becoming a very important item in these days, when there is such a demand for it by the paper mills. While straw can be bought in some places in the State for 60 cents per ton, the market price at the present time for baled straw (which adds an expense of \$1.25 per ton) is \$6, and in some places it is higher than that. But considering the bulk straw as it exists upon the farm, we value it at \$2 per ton, and it requires at the very lowest estimate 1 ton of straw to bed a cow one year. This is assuming that the stable is constructed in a sanitary manner. If the stable is not drained and the liquid is to be absorbed by the straw, it will require at least 2 tons of straw per cow per year.

General maintenance expenses.—General maintenance expenses, which we have grouped under one head, include repairs on stables, repairs on fences, disinfecting stables, veterinary services, insurance, and taxes, which will all vary somewhat, but at a very conservative estimate can be calculated to amount to about \$3 per year per cow.

Cooling the milk.—The item of cooling the milk is one that has not been considered in the past, but owing to the fact that various boards of health at the present time demand that the milk shall be delivered into the city at a temperature of 50° to 60°, it will add decidedly to the cost of the milk, especially during the summer months. It is calculated that it requires approximately 1 pound of ice to cool a pound of milk and keep it cool until delivered into the city, at an average distance of 10 miles. Where a minimum amount of ice is used and water is used instead for cooling the milk, the expense must be applied to the labor required to pump water, or in case gasoline engines are used, to the gasoline and wear and tear of the engine. This item at a minimum would amount to \$2.50, figuring ice at the rate of 20 cents per hundred.

Hauling milk.—Hauling milk to the station is generally considered to be worth about 10 cents per hundred, which is the minimum at the present time. It would cost \$5 per year to haul the milk of a cow giving approximately 5,000 pounds of milk, and proportionately more for cows producing larger amounts.

This completes the list of items in the cost of keeping a cow for milk production for one year. It may be interesting to compare this with the cost of keeping a cow in 1889, the record of which was taken from a well-regulated dairy, and shows the increase in the cost of production.

By-products.—At the same time that the cow is producing milk she is producing other by-products which have a considerable value and which should be charged up against the final expense of producing milk. Manure is the most important by-product. In the manure the value of the straw is also estimated. To arrive at the value of a ton of manure we are obliged to refer to the results obtained by the experiment stations. The Ohio Experiment Station reports that from nine years of cropping they have estimated the value of a ton of manure, if reenforced with 50 cents' worth of superphosphates, to be \$4.50. Subtract the value of the reenforcement, and the value of a ton of manure will be \$4. This means that the value is applied upon the land. The average cow voids about 10 tons of manure in a year, of which it is estimated in the best-regulated dairies that about one-sixth is lost, and under average conditions three-fourths is lost. This can, however, be overcome by the process of education, instructing the farmers with reference to the value of manure compared with commercial fertilizers which they are obliged to buy. Apply on the value of this manure the cost of transportation into the fields, which under well-regulated conditions amounts to about \$1.40, and include also the interest on the spreader, which we will estimate at about 36 cents, and we will have \$1.76 as the value of 1 ton of manure, or \$17.60 as the value of 10 tons.

A calf is usually born to each cow every year, and this has a value which may be considered as one of the by-products. There is a wide variation on the value of calves, but ordinarily we do not place any value on a small, scrub, male, dairy calf. However, large male calves have a value of \$2 placed on them. Female calves are usually worth from \$3 to \$8, depending upon the milk production of the dam and the sire's dam. We may estimate the average of the calf to be about \$3.

Summarizing the cost of the different items in keeping a cow and deducting the value of the by-products will give the cost of the production of milk.

	1909.	1899.
Cost of feed.....	\$59.40	\$22.50
Cost of labor.....	24.00	9.50
Interest on cow, value \$60.....	3.60	.....
Interest on cow, value \$30.....	.....	1.80
Allowance for deterioration by age.....	2.50	1.70
Allowance for death by disease.....	1.50	1.20
Allowance for failure to breed.....	.25	.25
Interest on cow barn.....	3.00	1.50
Bull service.....	2.00	2.00
General maintenance expenses.....	3.00	1.50
Hauling milk.....	5.00	1.20
Cooling milk.....	2.50	.....
Straw for bedding.....	2.00	.....
Total cost of production.....	108.75	43.15
Value of by-products from the dairy:		
Manure, 10 tons, at \$1.76.....	17.60	.....
Calf.....	3.00	.....
Total.....	20.60	.....
Balance.....	88.15	.....

Since cows have different capacities and since we find that the average cost of keeping a cow that produces 3,000 pounds of milk does not differ greatly from the cost of keeping one that produces 6,000 or 7,000 pounds, we will show the relative costs of a gallon of milk according to the producing capacity of the cow. There might possibly be a slight increase in the feed cost of the animal producing 7,000 pounds of milk over the animal producing 3,000 pounds, but the comparative difference is not very great as a rule.

We put the cow producing 7,000 pounds of milk in a year as a limit; however, there are cows that produce more milk than that, as, for instance, Colantha 4th's Johanna, who produced 14 tons of milk in one year. But the man who has the skill to feed an animal of that character and has the ability to make an animal produce that amount is a rarer type of man than the best artist or the best poet. These men, as a rule, do not work for \$40 per month, and if the real value of the man's services be applied upon the value of the milk that that individual produces, it would amount to more than the cost of a gallon of milk produced by a 4,000-pound cow. Therefore we are obliged to limit this within the realm of the average man. High production requires extra skill, and therefore must be charged up to the cost of production.

Comparative costs of producing a gallon of milk to-day and twenty years ago.

	1909.	1889.
3,000 pounds milk per cow, cost per gallon.....	\$0.341	\$0.124
4,000 pounds milk per cow, cost per gallon.....	.256	.093
5,000 pounds milk per cow, cost per gallon.....	.205	.074
6,000 pounds milk per cow, cost per gallon.....	.170	.062
7,000 pounds milk per cow, cost per gallon.....	.146	.053

It will be seen from this table that the cost of production varies according to the capacity of the cow. The average good dairyman who applies to his business any reasonable degree of sanitation and who keeps good cows, which produce on an average 5,000 to 6,000 pounds of milk, must have, as you will notice, from 17 cents to 20 cents per gallon for his milk before he realizes any profit. It will be realized that the low price of milk drives the dairyman to produce the bulk of his milk in the summer, when it is cheaper, and compels them to apply as few of the sanitary features as possible in order to avoid labor, and furthermore it prevents them from building sanitary barns. So it will be seen that if the price is not to be increased in the future it is absolutely necessary to carry on a thorough system of education by which to induce the farmers to keep better cows—cows that produce more milk, and therefore make a greater profit.

This so far represents the cost of producing a gallon of milk. To reduce this on a butter-fat basis, which includes the value of skim milk, for we are assuming that the farmer utilizes the skim milk for feeding purposes, we therefore must estimate the cost of producing a pound of butter fat at a price depending again upon the amount produced, which is as follows: If a cow produces 150 pounds per year, the cost of producing 1 pound of butter fat would be 40 cents. Likewise, if she produces 200 pounds of fat, the cost of producing 1 pound of butter fat would be 30 cents; 300 pounds, 20 cents. These figures pertain only to the production of butter fat and not to the manufacture and sale of butter. The cost of manufacturing this milk into butter varies greatly, according to the capacity of the creamery. Larger creameries can manufacture a pound of butter somewhat cheaper than small creameries, but as a rule the cost of manufacturing butter put into pound cartons varies from 3½ to 4 cents a pound; as a rule it costs from half a cent to a cent to put it into pound prints. In retailing this product we find a great variation as to the cost and profit wanted by the retailer. In some instances where grocery stores have had special sales the product was actually sold at cost at a given time, while at a later date the same product at the same place was sold at a price ranging from 7 cents to 10 cents above the wholesale price. Hence it becomes a difficult problem to determine just exactly what it would actually cost to put this product into the consumers' hands. The question is often asked, "Why is not more country butter made, and why is the creamery butter taking the place of the country butter upon the market, which in the past was cheaper than the creamery butter is to-day?" In estimating the cost of making a pound of butter made upon the farm, we have accumulated various facts, all of which vary to a great extent, owing to the value of labor as estimated by the farm housewife. Logically, however, we should base the value of this labor at a price that can be secured by a good housemaid who is receiving a salary at the rate of \$5 per week. Upon this basis, to manufacture butter on the average farm it costs about 6 cents per pound plus the cost of the delivery of butter, which is about 2 cents. If, however, it is delivered directly to the consumer,

we are obliged to estimate the delivery at a higher value, depending upon the amount he distributes and the distance he is obliged to drive, which may range from 4 to 10 cents a pound. Furthermore, owing to the uncertainty of the incorporation of moisture in butter, there is usually considerable loss in its manufacture. Therefore most of the farmers are resorting to the simpler and more profitable way of selling their cream directly to the creamery. It is therefore evident that butter can not compete with oleomargarine, and even if oleomargarine was made out of the very best of fats and oils it could still be sold upon the market, making a greater profit to the manufacturer and retailer when sold for half the price of butter.

I repeat to you, gentlemen, again, that we are only asking for justice, and we are perfectly willing to take our chances on butter with oleomargarine sold for what it is. We ask you to legislate so as to save the 400,000 people who are directly or indirectly employed in this work in our State from discomfort rather than to satisfy the greed of a few oleomargarine manufacturers. The Grout law has been effective, which is evident from the number of prosecutions which have been made and which could not have been reached by former laws. Since the intruders have devised new schemes for evading the present law we believe that it is necessary to amend this law in order to meet the fraud that results from these schemes. We therefore wish to suggest that we stand for the present McHenry bill, which at least will have a tendency to close the gap for a time and compel the oleomargarine people to stay within the limits of justice.

As you will recognize, I am from the same city where the Capital City Dairy Company is located, in which I believe there never was a pound of butter made, but instead I know there has been made millions of pounds of oleomargarine. I also come from the city where Mr. Pirrung comes from, who is the president of the Capital City Dairy Company and who testified before this committee on Friday, April 29, when asked by Congressman Lamb whether the cow ought not to be abolished, said as follows, quoting from the journal: "Sure, you had just as well abolish the cow except for beef purposes. It is not necessary to have her except for beef purposes."

Gentlemen, according to the medical report, we understand that four-fifths of the infants born depend for nourishment upon their foster mother, the cow. Do we understand from this statement of Mr. Pirrung that he wishes to handicap the growth and practically destroy the lives of the precious infants, the richest endowment to man and wife and dearest to their hearts, in order that he may satisfy his selfish greed for money? The country's future and the nation's destiny depends upon future generations, and no individual man nor body of men has the right to handicap the physical and spiritual development of our future generations. Neither have they the right to interfere with the business of the people on the 250,000 farms of our State who are engaged in an honest business and are making an honest product. The people of the State of Ohio have spent millions of dollars in the past to maintain and develop the dairy business, and our legislature has again appropriated \$10,000 for this year for the encouragement of this business, because they know well that the future of agriculture depends upon this particular branch.

According to Mr. Pirrung's statement all of these energies spent in the past by the millions of people shall be thrown to the winds so that he and a few others may sell colored oleomargarine.

We understand that a number of labor organizations have passed resolutions to the effect that the present tax of 10 cents a pound on oleomargarine shall be removed. If these organizations were rightly informed, instead of being falsely educated by the oleomargarine manufacturer and retailer, and even some grocerymen, because they are anxious to sell oleomargarine to the consumer, which nets him two times more profit in the transaction than butter (as stated by Commissioner Emery) I repeat it again, if the real ultimate object were known by the organizations they would pour wrath upon these parasites who are aiming to suck the very life's blood out of them. I appeal to the common sense of this committee in treating this proposition justly and according to the dictates of their true conscience. We believe that this statement, as testified by Mr. Pirrung, shall not go unchallenged and without explaining the real truth of the situation. We therefore ask you to balance greed for money against the discomforts of the people and legislate accordingly.

STATEMENT OF MR. B. S. PEARSALL, OF ELGIN, ILL.

The CHAIRMAN. Before we adjourn this afternoon I would like to ask Mr. Pearsall, of Elgin, Ill., to make a brief statement. Mr. Pearsall, I understand, is interested in the manufacture of process butter, as a business, and I think perhaps the statement he may make would give the committee some interesting information.

MR. PEARSALL. Mr. Chairman and gentlemen of the committee, I would like to preface my remarks on the subject of process butter by saying that I have been a patient listener to all the arguments, not knowing until 2.30 this afternoon that I would be privileged to discuss the subject that is uppermost in my mind. I was told then that probably the afternoon would be taken, so I intended to compile my figures more concisely to present them to-morrow morning. However, my subject is, I think, easily handled, easily digested, so I shall not try to make an elaborate or detailed speech.

Between recesses of the hearings I have made diligent search at the different departments in Washington to see what material I might find bearing on the virtue of or against process butter, that I might present it, as the other speakers have, from an authoritative standpoint. At the Department of Agriculture I was given all the material they had. I want to read a few extracts from the oldest article. This is called "Renovated Butter. Its Origin and History." It is written by Levi Wells, in 1905. It starts out by saying:

Great quantities of butter are made annually on the farm. The quality of this farm-made butter is as varied as the number of individuals who make it. The greater part of it finds its way to the consumer within a short time after it is made.

Owing to increased production in the summer months, most of the surplus accumulates during that season. Formerly this surplus of country butter was a drug on the market, and it was of such indifferent quality that to store it was a doubtful expedient.

The only method formerly known of profitably handling the surplus was to rework it, adding coloring matter and salt. This reworking brought the butter to a uniform shade of color and a uniform degree of saltiness. If it was salted heavily, this helped to conceal some of the undesirable flavors. Such butter was called, commercially, "ladies."

Along in the early eighties several persons began to experiment with the surplus country butter to determine, if possible, whether there was not some way to bring it to uniform color and saltiness and at the same time free it from bad or disagreeable flavors.

The first thought of the manipulator was to devise some way to rid the butter of the curd and coarse salt it often contained. Melting was the only practicable method.

This pamphlet then describes experiments made in different places from 1881 to 1885, which is immaterial. I simply want to give a brief sketch as it appears in the United States Department of Agriculture. It says that in Philadelphia it was called "boiled butter," that in Boston it was called "sterilized butter." It adds that:

The prejudice against this name—

I want to say, however, later it was decided by the Government to call it "renovated butter" [reading]:

The prejudice against this name has in a great measure worn away, and the business probably now stands on a firm basis and with good prospects for its continuance as a legitimate dairy industry. To improve the quality of an inferior article is certainly commendable and advantageous in many ways.

With improved methods and greater care taken by manufacturers in selecting their packing stock before it has deteriorated, a wholesome and palatable article is produced; one that is very acceptable to those who wish to save a portion of the cost of high-priced butter.

This, gentlemen, is part of the records in the Agricultural Department of the United States Government.

Mr. HAINER. Please give the title of the bulletin.

Mr. PEARSALL. The title is Renovated Butter: Its Origin and History. By Levi Wells, Inspector, Dairy Division, Bureau of Animal Industry. (Reprint from Yearbook of Department of Agriculture for 1905.)

Levi Wells was the inspector of the Dairy Division at that time.

Mr. FLANDERS. And he is now.

Mr. PEARSALL. It also says:

The law as applied to renovated butter requires rigid and frequent inspection to be made of the plants where it is manufactured, and of the materials used in its composition, as well as the sanitary conditions within and around the factories, including proper drainage, ventilation, etc., so that nothing unwholesome or detrimental to health shall exist in the finished product when it leaves the factory.

And another clause:

Manufacturers generally have abandoned the idea that they can produce a merchantable article of butter from old, rancid stock, and as a rule if any such is received, they reject it. Some of it goes to the cheap bakeries and the rest is used for soap grease.

* * * * *

The total product of renovated butter the last fiscal year was fully 60,000,000 pounds, the product of 78 factories. There is nearly \$1,000,000 invested in the plants.

B. A. I. Order No. 147, issued July 25, 1907, by the Agricultural Department, Bureau of Animal Industry, which is the last regulation regulating renovated butter in factories, in regulation 18 says:

Inspection shall also be made of the materials going into the manufacture of renovated butter and the product thereof, and the inspector shall report the quantity and quality of renovated butter manufactured and the character and the condition of the materials from which it is made. If materials to be used in the manufacture of renovated butter are deleterious to health or unwholesome in the finished product they shall be confiscated.

Mr. LEVER. How severely is that section there enforced?

Mr. PEARSALL. Absolutely. That is, the inspection clause in the regulations of the national industry. The most recent document is the report of the Chief of the Bureau of Animal Industry for 1909, Mr. A. D. Melvin. The only reference in the annual report to renovated butter is contained in the last clause, under the heading, "Renovated-butter inspection." I will simply give you this that

you may know the original history; that you may know the laws laid down for us, and then I give you the report of the inspector himself:

The work of inspecting renovated or "process" butter and the factories where it is produced is in charge of Maj. M. W. Lang, with headquarters in Chicago. The supervision of this product is carried on in accordance with the act of Congress of May 9, 1902. During the past fiscal year 43 renovated-butter factories were in operation, located in 13 States; practically all, however, being in the Middle West. The total volume of this trade for the past fiscal year showed some diminution when compared with the previous year. The total quantity manufactured last year was 47,432,276 pounds, a decrease of 3,225,882 pounds. There was a corresponding falling off in the export trade also, the total of which was 1,115,288 pounds, a decrease of 156,322 pounds. The total number of inspections of factories for the year was 144.

That is the whole of his report excepting one line, which I wish was not necessary for him to put in there, but which I will read in order to be complete and honest with everybody:

The number of samples tested for moisture was 228, of which 193 were found below the standard of 16 per cent.

I asked the gentleman who furnished me that document if I was to assume that the balance contained an abnormal quantity and was necessarily adulterated butter, and he said that was a natural supposition.

I have read to you, now, all that I can find in the departments of the United States Government bearing upon this product. In making my remarks I am mindful that I am between two very deep waters, and I shall have to paddle my canoe very carefully. I am not at all ashamed of the product I represent, for I have buildings and property and manufacture creamery butter, both the old-time whole-milk creamery butter and hand-separated cream, and in addition to that am fortunate, or unfortunate, as you may decide, in owning and manufacturing process butter, but I do not blush at all to present it to you.

I say I am traveling between two deep propositions. Part of the process manufacturers make oleomargarine; some of them make creamery butter, the same as I do, so I shall try to confine my remarks entirely to the virtue of process butter, and ask why it ever has been, or why it should be, taxed, and ask if it is unfair for me to ask that the tax be cut off when the new bill is drawn or presented?

The first paper mentioned here, the history of the process business, referred to the surplus of dairy butter that did exist. Process butter came into importance, real prominence, about ten years ago. I think you men of the committee will bear out the statement that previous to that time, dairy butter, the farmer's butter, from all quarters of the United States, practically in every State of the Union, was really a drug on the market. I have been in the business only since 1901, and I have purchased dairy butter to manufacture renovated butter at less than 10 cents a pound, and previous to that time good, salable, dairy butter, all butter oil, pure product, netted the farmer many times not more than 5, 6, or 7 cents a pound, for good, wholesome, whole-milk butter.

Statistics have been given here, I think, that there is practically 1,600,000,000 pounds of butter of all grades. I think the statement has also been made that between 800,000,000 and 1,000,000,000 of that enormous quantity is farmer's butter, or dairy butter. A large part of that, of course, is consumed on the farm, is now, always has

been, by the farmer, near the small towns; but the quantity we have made, fifty or sixty million pounds a year, has practically represented the drug on the market. We have lessened the home consumption of dairy butter. We have cleaned up and taken the surplus by creating a wholesome article and creating a demand for that surplus. What have we done? We have raised the price of the farmer's butter, the dairy butter, from the original price of 6, 7, 8, 10, and 12 cents, until to-day, in the middle of the summer, we pay 20 cents a pound for it. During the winter months we pay 25, 26, and 27 cents, and yet we are taxed because we have done it.

In addition to raising the standard—and this article says that it is a worthy proposition where any unwholesome or poorer product is made better and put on the market—in addition to that we have raised the value of skim milk in our communities, 13 States, 43 factories—at one time 78, but now only 43, according to this report. We make process butter out of skim milk. In my own creamery butter experience there have been many, many seasons when we purchased the whole milk, where we have begged the farmers to raise the calves and take the skim milk back at 10 cents a hundred. I to-day pay 60 to 85 cents a hundred for skim milk in the radius where we reach for our process business.

Mr. LEVER. Is that difference in price due to growth in the process-butter business?

Mr. PEARSALL. Absolutely; making a wholesome, clean product, we demand a wholesome, clean milk; we pay the price for it, and we take all we can get. There is the greatest demand to-day for the skim milk, and we have to work harder for it than we do for the trade to sell it.

So much for the surplus of the butter that is on the market. I want to say, gentlemen, that I am not appearing before you to plead primarily for the farmer, to advocate that we will increase the cost, pay him a higher price, for I do not know whether we will or not. I am not going to plead entirely for the consumer, the one who at last gets the product; I am not going to make any charges against creamery butter or against oleomargarine. I am here to stand absolutely as a process-butter manufacturer, pleading my own case, and you may call it selfishly or unselfishly, just as you see fit.

When the Grout bill was passed, seven years ago, for some reason, which I have never been able to find out—I have asked a good many men who were interested at that time, some who believed they knew—I have never yet been able to find out why we were taxed, why process butter, a pure butter, made from pure oil, butter fat—it is not a substitute for butter, it is not an infringement upon any law, it is not deleterious to health, it has robbed no man of a market, we have not encroached upon the oleomargarine interests or the creamery-butter interests—but we are paying to put on the market, for the classes who want a pure butter, wholesome, even in quality, a butter that is all butter, at a less price than the best creamery butter, at a higher price than the best oleomargarine; and for seven years we have been taxed by the United States Government at the rate of \$125,000 a year, and it has cost them about \$4,000 a year to inspect our plant. Why should we be taxed? I have come purely to plead with you men, to tell you the absolute truth, answer all questions you may wish answered, and ask you why we should not be

left out of any legislation, why we should be handicapped by a tax of a quarter of a cent a pound in making a wholesome, pure article, selling it for what it is to all trades, obeying all state laws—we want to obey them. We brand it “Renovated butter” where the State calls it renovated butter. We brand it “Process butter” where the State calls it that, putting it up to the consumer as we think it is, and we think it is, and we always will. As you know, we are charged a minimum license, \$50 a year, for operating a plant and that does not amount to anything. In addition to that there is a quarter of a cent a pound for raising the standard of an article that the United States Government said was a drug on the market.

The CHAIRMAN. Is the best renovated butter as good as the best creamery butter?

Mr. PEARSALL. No, sir.

The CHAIRMAN. What is the difference?

Mr. PEARSALL. I answered that very promptly. It is a lower grade butter, that is all. It is just as pure, just as clean. Doctor Crampton answered that question here. He said when compared with oleomargarine it was identical with creamery butter, because it has the same constituents in it, carries the same amount of butter fat. Our state law requires 82½ per cent butter fat, and we put it in.

The CHAIRMAN. Can you not give any better answer to my question as to why it is not as good as creamery butter than to say it is a lower grade?

Mr. PEARSALL. It is made by the farmers.

The CHAIRMAN. Is it because it will not last as long?

Mr. PEARSALL. It will last just as long. Put it in a refrigerator or keep it under the same conditions, and it will last just as long as creamery butter. But, to start with, we begin with a butter oil. That has once been churned, under what conditions we have no control. Some good wife may have churned it too hot, and the next one too cold. We extract the butter oil, but using the butter oil, while the creamery man uses the raw cream. They can control their conditions and make a higher flavor and smoother bodied, or some may call it a heavier-bodied butter, but no more uniform in quality, no sweeter, no cleaner.

The CHAIRMAN. If it is a lower grade butter, then, of course, it ought not to command as much on the market.

Mr. PEARSALL. That is true. It does not.

The CHAIRMAN. And if it were put upon the market under a brand that would lead the purchaser to believe he was buying a creamery butter made direct from the milk or the cream, it would, to the extent of the difference in the price, be a fraud upon the purchaser.

Mr. PEARSALL. If they charged more than it was worth it would be a fraud.

The CHAIRMAN. What was the practice prior to the act of 1902? Was process or renovated butter put upon the market branded as such?

Mr. PEARSALL. I think not; not very much.

The CHAIRMAN. How was it marketed, under what name?

Mr. PEARSALL. Just simply “Butter,” without any mark whatever.

The CHAIRMAN. Then, as a matter of fact, if it was put upon the market under some other name than renovated or process butter, it was calculated to deceive the purchaser, was it not?

Mr. PEARSALL. If anyone lied about it, he would deceive the purchaser. But it is butter; it is pure butter. We have on the market—it has been read here two or three times—several grades of butter. Process butter is neither the poorest nor the best. The two extremes, the poorest and the best, are not now taxed.

The CHAIRMAN. And yet if a man went into the market to buy butter and was offered a product which, as far as he could see, was fresh, made from the whole milk or the whole cream, he would be deceived and defrauded if, as a matter of fact, that butter was merely old butter which had been worked over and by the application of chemicals or other similar process or manipulation had had the offensive odors or the rancidity removed; he was deceived if he was led to believe that he was buying original butter instead of butter that had come from a product of that sort, was he not?

Mr. PEARSALL. Yes, sir.

The CHAIRMAN. Do you not think that afforded a sufficient reason for the enactment of a law requiring that this butter should bear its name?

Mr. PEARSALL. Mr. Chairman, yes, sir; and I think it should bear its name now. I think our plant should be under federal supervision now.

The CHAIRMAN. Is there any way by which such federal supervision can be had except through the means of a small tax?

Mr. PEARSALL. License our factories; put a heavy penalty upon anyone who melts butter or uses it unless he has a license.

The CHAIRMAN. You say that you manufacture creamery butter as well as process butter?

Mr. PEARSALL. Yes, sir.

The CHAIRMAN. Do you manufacture them in the same establishment?

Mr. PEARSALL. They are under the same roof. They have a solid brick wall between, according to the law. The same power plant operates both.

The CHAIRMAN. There is no way by which some of the process butter could get into the creamery product?

Mr. PEARSALL. Not unless intentionally carried out into the street and back into the other end of the house.

The CHAIRMAN. Of course, I know your factory does not do it, but are you sure that the other factories guard their product so closely?

Mr. PEARSALL. Do not trust us. I, of course, could not speak for them, only I have asked at the Internal Revenue Department about violations of the law, and have been told that they stood very high, that there were no prosecutions; that the process manufacturers were practically clean.

The CHAIRMAN. You do not know, then, of any cases where butter that was really process butter has been sold on the market as creamery butter in violation of the law?

Mr. PEARSALL. Not by a process manufacturer. There is a case in Washington where the butter was stamped "Process butter," and the merchant in Washington sold it as butter. The federal authorities arrested four or five grocermen, and the grocermen beat the Government. The decision was that it was butter, pure butter, unadulterated, and might be sold as butter. The Government appealed the case, and I have made diligent search to find out why it could not

be heard, but it has not been heard. The same was tried in Maryland, the same was tried in New York, and the defendants won.

The CHAIRMAN. In each case the court holding that the Congress had no right to require a butter which was in fact process butter to be so branded?

Mr. PEARSALL. It was branded, Mr. Chairman, and it was stamped by the manufacturer. It was shipped in interstate commerce, according to the law, and as it reached the State—the State of Michigan, for instance—the manufacturer had complied with all the laws, but the purchaser there sold it as butter; he did not sell it as process butter, and he was arrested.

The CHAIRMAN. And that was due, I take it, to the fact that there was no law in Michigan requiring the sale of renovated butter under that name?

Mr. PEARSALL. Yes; there was a law in Michigan, and nearly all the States, requiring it to be so branded, but the court there ruled it was not proven that it was an unhealthy product: that is, was an absolutely pure butter, and was not a misrepresentation, as far as quality is concerned. The ruling, I think, went further, and the court said the method of manufacturing was not of value any more than the question how creamery butter was manufactured, whether from whole milk or separated.

The CHAIRMAN. You said you had not been able to find out why process butter was taxed. I happened to be a member of this committee when the act of 1902 was passed, and I remember very distinctly that the sections relating to process butter were inserted because of evidence brought before the committee that it was the common practice throughout the country for creameries to buy up the remnants of butter, the unsalable lots that were left on the hands of grocery men, and work it over, introduce salt or soda or other chemicals to relieve it of its rancidity, perhaps mix up a little fresh cream with it to give it a fresh butter odor, and then put it upon the market as creamery butter; and the real creamery people had just as much objection to that as they had to the sale of oleomargarine as butter, and the committee felt that, inasmuch as federal supervision seemed to be necessary in order to prevent that sort of a fraud, it was only right that the manufacturers of that product should pay the expense of that inspection, just as the manufacturers of oleomargarine are required to pay the expense of their inspection, and it was for that reason that the nominal tax of a quarter of a cent a pound was levied.

Mr. PEARSALL. I think you were very wise in that, if that was a fact. That I did not know of at the time. If I had the framing of the law, I would advocate now that the process men, and any factory where they manipulate butter for the purpose of making a uniform, even colored, even quality, even grade product, should pay a license, and should be under the supervision of the Federal Government, and there should be a very severe penalty if anyone manipulated butter for any other purpose. I am in the creamery-butter manufacturing business, and want that industry protected, but I claim that the process business is legitimate. There is a market for it, a field for it, and it should be kept in a class by itself, but it can be kept there without taxing us \$125,000 a year.

The CHAIRMAN. There is a legitimate difference between the price of process butter and creamery butter?

Mr. PEARSALL. In the summer time it gets within 2 cents a pound. Some seasons I have seen it only 1 cent a pound. In the winter it gets 6, 7, 8, and 9 cents. I have never known it more than 9 cents. The reason for that is the creamery butter begins to grow scarce in the fall, the farming season is over, and the butter begins to come in to us from all sections we have not heard from during the summer, when the farmers were very busy, so that we can make the product very much cheaper. Furthermore, there is a difference in the quality. This time of the year we can make process butter that I defy Mr. Flanders here to pick out from creamery butter.

Mr. LEVER. Do you color that process butter?

Mr. PEARSALL. Occasionally; not as much as we do creamery butter.

Mr. LEVER. You do not color it as much as you do creamery butter?

Mr. PEARSALL. No, sir.

The CHAIRMAN. Why?

Mr. PEARSALL. The oil itself seems to carry more color. That is a question I can not answer any further than that. We use very little color. It is always in the winter a little higher colored product. That may be due to a larger per cent of the original stock being colored by the farmer; yet there is not very much need of it. A great deal of that comes to us fairly white.

Mr. LEVER. Is the sanitary condition of most of the butter manufacturing in the country good?

Mr. PEARSALL. I think so. This report covers that entirely.

Mr. LEVER. Would you say that the sanitary condition of the creamery concerns would compare favorably with the process concerns?

Mr. PEARSALL. The plants I own do.

Mr. LEVER. What is your general knowledge as to that?

Mr. PEARSALL. My knowledge is somewhat limited. I know previous to our own state law—we have now a factory-inspection law in Illinois—there were some of the creameries that were not in very fine shape, but I think that law has been very effective.

Mr. LEVER. Do you think it possible to put your process butter into the hands of the ultimate, the last, consumer, as process butter, under the original-package idea contained in several of these bills, with proper markings, labelings, emblems, revenue stamps, and so forth?

Mr. PEARSALL. I think we put it into the hands of the consumer as process butter. We do not use very much of the original package. My own personal manufacture is very largely the 1-pound print. Some of my competitors use the tub business. That is a matter of getting acquainted. But I think the process butter goes to the consumer very much as process butter, and I will tell you why, because it is a cheaper butter; there is no object in defrauding the consumer. They want the lower-price butter, not a poor butter. It meets the demand, so that it is sold as butter, and as process butter.

Mr. LEVER. And the Government forces you to pay a tax of a quarter of a cent a pound on your process butter that you can sell it as process butter and under that name?

Mr. PEARSALL. We sold it under that name before. I do not know why it was put on there. I think it was to put us out of business, but they did not succeed.

Mr. LEVER. Whether it was process butter or creamery butter, would it not be as just to pay a tax on creamery butter and force them to sell it as such?

Mr. PEARSALL. Let us leave it off all butter.

Mr. LEVER. I say, would it not be as just to do that?

Mr. PEARSALL. I would rather you would put it on the other basis and leave it off all. I think so, Mr. Lever. I do not know why one butter product should pay a tax others do not.

Mr. LEVER. Certainly; why one butter product should, and others not.

Mr. PEARSALL. Yes; I would like to illustrate that by comparison with a good Texas steer. You take a beef; kill the beef; an inspector comes along and says, "We will not tax the tenderloin and the finest of that beef, because it is the finest; and we will not tax the part upon the neck next to the horn, because that is the poorest." But when he comes to the rump, nice, juicy round steak, healthy and palatable, that is neither the best nor the poorest, he says, "We will tax that." That is where we get in in the process business. [Laughter.]

The CHAIRMAN. Because you could not very well substitute the round steak for tenderloin and deceive the purchaser into believing it was tenderloin, when, as a matter of fact, he was getting round steak.

Mr. PEARSALL. You might somebody. But my thought was, that was all beef. My argument is confined to the fact that it is all butter.

If I may read this again:

The only method formerly known of profitably handling the surplus was to rework it, adding coloring matter and salt. This reworking brought the butter to a uniform shade of color and a uniform degree of saltiness. If it was salted heavily, this helped to conceal some of the undesirable flavors. Such butter was called, commercially, "ladies."

Along in the early eighties several persons began to experiment with the surplus country butter to determine, if possible, whether there was not some way to bring it to uniform color and saltiness, and at the same time free it from bad or disagreeable flavors.

The first thought of the manipulator was to devise some way to rid the butter of the curd and coarse salt it contained. Melting was the only practicable method.

You have referred twice, I think, to chemicals, I do not think intentionally, and yet I do not want to presume you were ignorant of the process at all. Would it be of interest if I tell you how we make process butter?

The CHAIRMAN. I used that term, doubtless, because of what lingered in my mind from having read the definitions of different kinds of butter that appear in the law.

Mr. PEARSALL. It says there we shall not use it.

The CHAIRMAN. This is the language:

Adulterated butter is hereby defined to mean a grade of butter produced by mixing, reworking, rechurning any milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing to remove therefrom rancidity, or any butter or butter-fat with which there is mixed any substance foreign to butter as herein defined.

And further in the law it defines process butter, or renovated butter, as—

Butter which has been subjected to any process by which it is melted, clarified, or refined, and made to resemble genuine butter, always excepting "adulterated butter" as defined in this act.

I presume you distinguish between adulterated and process butter, just as the law does, and you desire to state that there are not any chemicals used in the manufacture of process butter?

Mr. PEARSALL. Yes; I would like to make that very plain, for the first reason, that this surplus of dairy butter that used to be on the market undoubtedly did become rancid, and some of it decomposed; a large part of it was undoubtedly unsightly, because the housewife traded it off to the best advantage she could; she traded it to merchants, who had no good use for it, but took it in because they did not want to offend the farmers' wives, and the best they could do was to pack it in tubs and barrels and sell it. To all of us it is an unsightly proposition; but we extract the pure oil, clarify it with pure water and pure air, refine the butter oil, extract the casein; we use the pure butter oil in a fine state, then mix it with the best milk procurable, and make a fine, clean butter.

The CHAIRMAN. Then you do not use any acid or alkali, or and chemical?

Mr. PEARSALL. It is not necessary. The butter we make nowadays chemicals will have a very bad effect upon.

The CHAIRMAN. Are there any factories devoted to the manufacture of adulterated butter?

Mr. PEARSALL. No factories are displaying signs, anyway. Some of them did take out a license, but they immediately asked for a cancellation of the license.

The CHAIRMAN. Is there any butter sold and branded as adulterated butter?

Mr. PEARSALL. The butter that is found to contain excess moisture has to be branded and pay a 10-cent tax and sold as such.

The CHAIRMAN. But it is not deliberately and openly manufactured?

Mr. PEARSALL. No. I think in ninety-nine cases out of one hundred that is purely accidental.

Mr. McCARTY. I believe you stated, reading from your reports, that there were some 73 renovated butter factories?

Mr. PEARSALL. The last report said 43.

Mr. McCARTY. And some 244 inspections in a year—about that?

Mr. PEARSALL. This report said 144.

Mr. McCARTY. And the cost of those 144 inspections of those factories was about \$4,000 a year?

Mr. PEARSALL. I made the statement that it undoubtedly did not cost the Government more than that. This report says that the entire inspection is in the hands of one man. I am quite sure that his services could be secured for \$2,500, and add \$1,500 to \$2,500 more for his expenses; \$5,000 ought to cover it.

Mr. McCARTY. But one man made all the inspections in the renovated butter factories?

Mr. PEARSALL. That is what this annual report says.

Mr. McCARTY. Covering 43 of them?

Mr. PEARSALL. It says:

The work of inspecting renovated or "process" butter and the factories where it is produced is in charge of Maj. M. W. Lang, with headquarters in Chicago.

Mr. McCARTY. Then, in your opinion, if one man can cover the inspection of 43 butter factories, would it not be possible for one inspector to cover 43 creameries?

Mr. PEARSALL. I believe he could cover a great deal more.

The CHAIRMAN. Let me interrupt you to say that the language Mr. Pearsall has just read does not convey the impression to my mind that one man does all the work. He says the work is in charge of one man, and the same language would be used if it were referring to the Bureau of Animal Industry, which is in charge of Doctor Melvin, but he employs several thousand men.

Mr. PEARSALL. In this case it is one man who does it.

The CHAIRMAN. As a matter of fact, to your knowledge, does one man do all the inspecting?

Mr. PEARSALL. Yes, sir; in 13 States.

The CHAIRMAN. That is very interesting.

Mr. McCARTY. The point of the question was merely to give the committee a clue to the cost of inspecting creameries.

Mr. BEALL. What is "Western imitation creamery?"

Mr. PEARSALL. I do not know, really. But at one time I was bookkeeper for a creamery firm in the State of Nebraska. At that time—that was twenty-five years ago—they made what they called an imitation. They made it from this same dairy butter, by selecting the butter most uniform in color, and packed it in tubs without melting or mixing whatever. They simply select butter and make a tub full of one color, and they call it "imitation." But I never produced nor handled any of it since I have been in business.

Mr. BEALL. What is "Western factory first?"

Mr. PEARSALL. I am just as much in ignorance on that. I presume they are both made from the same dairy butter; must be.

Mr. BEALL. Do you know how it is sold?

Mr. PEARSALL. As butter, undoubtedly. In these immense markets you go and ask for butter, and they show you a tub, and you select it, and they charge you a price. You can very easily detect the quality you want yourself.

The CHAIRMAN. We will not detain you any longer.

Mr. PEARSALL. I thank you very much.

(Thereupon, at 5.30 o'clock p. m., the committee adjourned until to-morrow, Tuesday, May 17, 1910, at 10.30 o'clock a. m.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Tuesday, May 17, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott, chairman, presiding.

The CHAIRMAN. The committee will come to order. I believe the understanding this morning, gentlemen, is that two hours shall be occupied by the representatives of the dairy interests and creamery interests, and two hours this afternoon by the representatives of oleo-margarine, with the understanding that whatever statements shall be

made are not intended to bring in new matter and shall not be regarded as evidence, and that the speakers are not to be interrupted by questions if they desire to present matters to the committee without interruption. I believe, Mr. Flanders, you desire to have Mr. Tawney address the committee first. If so, we will be very glad to hear from Mr. Tawney.

**STATEMENT OF HON. JAMES A. TAWNEY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MINNESOTA.**

Mr. TAWNEY. Mr. Chairman, at the outset I wish to say that I have not had time or opportunity to be present at the hearings, all of them, or to read all of the testimony that has been presented to your committee. I am not here for the purpose of discussing the technical questions that may be involved in the relative merits of the two products, oleomargarine and butter. I was in Congress when the present law was enacted, and I took rather an active part in the preparation of that law and in securing its passage through the House.

DAIRYMEN VITALLY INTERESTED IN DEFEAT OF BURLESON BILL.

I represent in Congress a district which is one of the largest dairy districts in the United States and the largest dairy district in the State of Minnesota. In my district we have between 16,000 and 17,000 dairymen, nearly all of them patrons of creameries, and hence the people whom I have the honor to represent are very much interested in the defeat of the principal measure pending before this committee, at least the principal measure that has been considered by your committee the past month. It is known as the Burleson bill, which I believe is substantially the Wadsworth substitute of 1900 and 1902; a substitute which was offered on the floor of the House as a substitute for the bill which was then enacted and is now the oleomargarine law. This bill was at that time carefully considered both by the Committee on Agriculture and by the Members of the House; it was very thoroughly discussed and debated on the floor of the House, and a majority of the House voted against substituting the Burleson bill, or, as it was then known, the Wadsworth substitute, for the bill which the Committee on Agriculture reported at that time.

This controversy between oleomargarine, an invention, and butter, a natural product, has been going on in this country for a great many years. It is a contest between honesty and dishonesty. For more than thirty years it has been a very live subject, because of the growth of the dairy industry and because of the menace in the rapid growth of the manufacture of oleomargarine. When the original law was enacted, the manufacture of oleomargarine was not conducted under the same conditions as it is to-day. At that time there was no question but that some of the material used in the manufacture of oleomargarine was deleterious to health. I recall reading the testimony on the original bill of men making statements, who verified their statements, that diseased animals of various kinds were used, or parts of diseased animals were used,

in the manufacture of oleomargarine; and I may say that when the present law was enacted there was testimony presented to the committee and to Members of the House, showing conclusively that the business was not conducted, even then, with the same degree of consideration for the public health that the testimony before this committee would seem to indicate as to the conditions under which the business is now carried on.

FRAUD UPON THE REVENUE, THE PRODUCER, AND THE CONSUMER.

The controversy involves three elements of fraud, and those constitute the principal basis for the opposition of the dairymen to the passage of this bill. In the first place, the frauds that are perpetrated now, and were perpetrated under the 2-cent tax before the present law was enacted, are frauds upon the revenue; second, fraud upon the consumer; and, third, fraud upon the producer of butter. The first fraud is committed, and was then, by the evasion of the tax imposed by law on colored oleo; the second, by the sale of oleo, not as oleo, but for that which it is not, butter, which is the fraud practiced upon the consumer—and it does not consist entirely of the sale of oleomargarine for that which it is not, but the sale of oleomargarine at a cost to the consumer far in excess of the actual cost of the product, plus a reasonable profit—and, third, the fraud upon the producer of butter grows out of the fraud practiced by the manufacturers of or the dealers in oleomargarine who sell oleomargarine for butter. To the extent that they are able to do this they fraudulently take from the producer of butter his legitimate market for the sale of butter.

Now, those are the three principal frauds that are practiced as a result of attempting to substitute an artificial product for a genuine product—to substitute an invention, because oleomargarine is nothing but an invention. I do not know whether all the formulæ for the manufacture of oleomargarine are patented or not, but I know that ten years ago there were ninety patents for the manufacture of oleomargarine. I recall very distinctly, when a resolution was introduced by me in the House calling upon the Commissioner of Internal Revenue to inform the House as to the ingredients used in the manufacture of oleomargarine, I went to the Patent Office and obtained copies of ninety patents, to ascertain whether or not the ingredients represented in obtaining the patents for the manufacture of oleomargarine were the same ingredients that were reported monthly to the Secretary of the Treasury or the Commissioner of Internal Revenue and actually used. I say, therefore, that this product is an invention. With the history of its development this committee is familiar, and I do not need to refer to the origin of the manufacture of oleomargarine at the siege of Paris.

Now, when the present law was prepared and the bill similar to the one which is now before this committee was proposed as a substitute for it, the substitute was carefully considered both by the committee and by the Members of the House who were interested in protecting not only the revenue, but the consumer and the producer of butter; and at that time, in 1900, I delivered in the House a speech in favor of the existing law and against the pending substitute, which was similar to the present Burleson bill. If the committee will bear with me, I want to read the criticism that I made at that time upon

the substitute, which is substantially the present Burleson bill—a criticism which is just as pertinent and just as apt and well taken now as it was then. I will read from the Congressional Record, page 452, of December 19, 1900:

THE PROPOSED SUBSTITUTE FOR THE GROUT BILL.

In view of the fact that the opponents of the Grout bill appeal to this House with so much fervor and eloquence in behalf of this substitute measure, I want to address myself to it for just a moment.

It was prepared either by the manufacturers of oleomargarine or their friends. It is another case of the Greeks bearing gifts. For that reason alone it is stamped with suspicion, and should be scrutinized with the utmost care. I would ask the representatives of the dairymen and the farmers upon this floor whether it is safe for us, in trying to secure legislation to protect their rights and interests and also to protect the consumers of butter from fraud and deception, to rely upon legislation prepared specifically in the interest of those who are engaged in practicing the fraud and deception we are trying to stamp out?

This substitute first proposed to amend the existing law, a law that now requires the dealer in oleomargarine, in selling to the consumer, to inform the purchaser that he is buying oleomargarine and not butter. This it attempts to accomplish by requiring him to wrap the same in paper or put it up in any other package with the word "oleomargarine" plainly stamped or printed upon the outside covering of the package. This part of the existing law and regulations it is proposed to amend by requiring the manufacturer to make oleomargarine in not less than 1 nor more than 2 pound packages. The manufacturer is also required to wrap these 1 and 2 pound packages in the factory in wrappers, upon which must be printed the word "oleomargarine," and around this package he will then be required to place a 2-cent or a 4-cent revenue stamp.

At that time they proposed to make some distinction in the tax.

Mr. BURLINSON. No; you are mistaken. A 2-cent stamp was to be placed around the 1-pound package.

Mr. TAWNEY. Yes; 2 cents on the 1-pound package, and 4 cents around the 2-pound package.

ORIGINAL PACKAGE PROVISION WOULD NULLIFY STATE LAWS.

This package the substitute defines as the "original package." It then provides that it must be sold by the dealer in this legally defined "original package." It is true the manufacturer is authorized to pack these packages thus defined as the original packages in crates or other larger packages, but, nevertheless, the 1 and 2 pound packages retain their character of being the statutory original package until it reaches the hand of the consumer.

This would enable the manufacturer to carry his product in these statutory original packages as interstate commerce into every State in the Union, and either through his agent or the dealer or retail merchant deliver them to the customer in defiance of the laws of any State, heretofore or hereafter enacted, prohibiting the manufacture and sale of oleomargarine colored in semblance of butter. This would afford absolute protection against the laws of any State. On the face of it it would seem impossible to practice a deception upon the purchaser, and the freedom of commerce among the States which the Supreme Court of the United States has always upheld would protect oleomargarine sold in these statutory defined "original packages" in the color of butter, notwithstanding the prohibitory laws of the States.

In the State of New York the manufacturers of oleomargarine to-day, by reason of the force of inspectors which that State employs and its laws on this subject to protect the consumers and producers of butter from fraud and deception, are unable to sell more than 500,000 pounds of their product a year.

Under this substitute they would be able to flood that State with their product, notwithstanding the state law. This would be so because the federal statute has defined the original package and ostensibly provides against deception as to its contents, and it is also provided that the form of that package shall not be changed until it reaches the consumer.

Now, gentlemen, that is one of the chief reasons why the bill under consideration, and the only one that I shall address myself to at

this time, should not in my judgment receive the favorable consideration of this committee. Thirty-two States of the Union, if not more, prohibit the sale of colored oleomargarine within the jurisdiction of those States. Now, whatever may have been the purpose of the enactment of these prohibitory laws, it is not for us to question it at all. But they are 32 sovereign States. The Federal Government under no circumstances is justified in expressly enacting a law for the purpose of breaking down a state law, which, under the decision of the Supreme Court with respect to original packages, would be the case if this bill became a law, for under the decision of the Supreme Court of the United States original packages are protected, as long as they remain original packages, from the effect and operation of any law enacted in the exercise of the police power of any State. For that reason the section of this bill known as section 6, to my mind, should not, under any circumstances, receive the favorable consideration of this committee.

DEFINITION OF MANUFACTURER IN PRESENT LAW.

There is another provision in this bill that I want to call to the attention of the committee, and that is on page 2, beginning with line 6, section 3, which defines the manufacturers of oleomargarine. That is a matter that there was very serious controversy over, and I may say that it was not until Mr. Wadsworth, then chairman of this committee, called attention to the fact that the original Grout bill could be successfully evaded, that the present definition of a manufacturer of oleomargarine was prepared by me and written into the present law; and that definition, you will see at once, differs materially from the definition in this pending bill which of course would very materially weaken or destroy the present law. The pending bill provides in the section I have referred to that—

Manufacturers of oleomargarine shall pay six hundred dollars. Every person who manufactures oleomargarine for sale shall be deemed a manufacturer of oleomargarine.

That is the proposed definition of a manufacturer. Under that definition a dealer would obtain uncolored oleomargarine, and obtain it, too, at a cost much less than he could obtain the colored article for, and at a cost far below the cost of butter. That difference would be the inducement for him to buy the uncolored article and color it and sell it for butter. The dealer could then do what he is doing to-day; he could color that product in his own establishment and pay no more than the retail license, or the coupon tax, as the case might be, and entirely evade the payment of the manufacturer's tax of \$600. It was for that reason that this provision was added to the definition of a manufacturer:

And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family table without compensation, who shall add to or mix with such oleomargarine any artificial coloration that causes it to look like butter of any shade of yellow shall also be held to be a manufacturer of oleomargarine within the meaning of said act, and subject to the provisions thereof.

Now, if that provision can be enforced, and it was enforced during the first few years after the enactment of this legislation, it protects the Government or the revenue of the Government to the extent that any man who colors oleo, whether he is the original manufacturer of it or not, is made by law a manufacturer and must pay a manufacturer's license.

Now, Mr. Chairman, there has been a great deal said here about this legislation being for the purpose of preventing frauds upon the revenue. The author of this bill, as I now recall his statement made at the opening of this hearing, which I have read—the author of this bill himself puts this bill forth as a remedy for the fraud which it is claimed is now practiced upon the revenue of the Government. There is no claim on the part of Mr. Burleson or no particular interest manifested by him either in behalf of the consumer on account of the fraud that is to-day practiced or in behalf of the producer of butter; but it is claimed that this bill will check the fraud upon the revenue.

PROVISION REQUIRING SALE IN ORIGINAL STAMPED PACKAGES WOULD NOT PROTECT CONSUMER.

It is maintained that this bill, which requires the manufacturer to manufacture his oleomargarine in 1 and 2 pound packages, wrapping these packages with paper on which is distinctly marked the word "Oleomargarine," or if packed in any other receptacle it shall be so marked, together with the internal-revenue stamp wrapped on the outside of the package, and that the package must be sold in that form, will protect the consumer. Now, suppose I am a manufacturer of oleomargarine. I pay the tax, which is evidenced by the stamp wrapped around the package. I pay that tax before the product leaves the factory, and I would have the members of this committee keep constantly in mind the fact that the Internal Revenue Bureau is a tax-collecting bureau, and not a police department, and that when the tax is paid on the product and the revenue is collected, the chief function of the Internal Revenue Bureau has been accomplished. If it should come to their notice that there was moonshining in the manufacture of oleomargarine, of course they would be obliged to ascertain the fact if possible, and check it if possible. But the tax would be paid in the manufacturer's establishment; and, of course, it would be a very easy matter for a man purchasing a carload of tax-paid oleomargarine to remove the wrappers, destroy the stamps and wrappers, firkin his oleomargarine, and sell it as butter more effectively than he can to-day, because it is not the business of the Internal Revenue Bureau to follow the product to the consumer to ascertain whether or not that revenue stamp was on the package when it reached the hands of the consumer.

The tax has been paid and collected, and in the collection of the tax the Internal Revenue Bureau has discharged its principal function with respect to this law, which is a revenue law. Therefore, in my judgment, were this provision enacted into law, it would give a greater incentive to fraud on the consumers of butter and those who wanted to consume butter than the present law does, for the reason that it is only the business of the Internal Revenue Bureau to collect the tax, and if that is paid before oleomargarine leaves the factory the Internal Revenue Bureau would then have discharged its function. Under the present law the dealer must sell to the consumer out of the original package, and it is the duty of the revenue agents to see that he is selling out of a tax-paid package. If he is not, he is liable to all the penalties of the present law.

Mr. BEALL. Can I interrupt you there, Mr. Tawney?

Mr. TAWNEY. Yes.

Mr. BEALL. In order to do that, he would have to violate the federal law, and also have to violate the state law in these thirty-two States of which you have spoken.

Mr. TAWNEY. He would have to violate the federal law, it is true, if he sold an original package of oleomargarine under this bill without the wrapper and the revenue stamp. He would be violating the federal law, but he would be violating a federal law in respect to a product on which the Government of the United States has already collected its tax. For that reason I say the agents and officers of the Internal Revenue Bureau are not policemen. They do not police the enforcement of the law only in so far as is necessary to secure the payment of the tax which the law imposes upon a given article.

Mr. BEALL. But that is not the only agency of the Government which could be put in operation to protect the law against violations?

Mr. TAWNEY. I do not know what other agency you could get.

Mr. BEALL. The district attorney, for instance.

Mr. TAWNEY. The district attorney is not an officer who goes around ferreting out these violations of the law.

Mr. BEALL. The United States grand jury and the officers under the pure-food law could do that.

Mr. TAWNEY. But the officer who is charged with the duty of ascertaining whether or not this consumer receives the original package would have to be an officer designated particularly for that service. It is not an officer in the Department of Justice. They prosecute only when evidence is laid before them, but there is no officer in the Government to-day whose duty it would be to follow these original packages to see whether or not they reach the consumer with the wrapper and the stamp on them. Of course the gentleman may say that in the enforcement of the internal-revenue tax upon cigars they are not allowed to use the box that has once been used in the sale of cigars, but that does not reach the consumer in the original package. A cigar does not reach the consumer in the original package. The original package has been broken and the stamp has been destroyed when I go and take a cigar out of a cigar box, after paying for it. Under this bill the package is to reach the consumer as an original package with the internal-revenue stamp around it, and I say it would be physically impossible. It would require an army of men to enforce the penalty of a law imposed by reason of or in consequence of the delivery of a package with the revenue-stamp removed after the tax was once paid.

Mr. LEVER. But, Mr. Tawney, don't you think with the same conditions existing under the present law the manufacturer pays the tax?

The CHAIRMAN. I think the chairman should remind the members of the committee that the understanding was that the speakers this morning should not be interrupted without their consent.

Mr. TAWNEY. I will say, Mr. Chairman, that it does not annoy me to have a member of the committee ask me any questions which they desire to ask me, but I will draw the line on anyone else asking a question excepting a member of the committee.

Mr. LEVER. This is so much the crux of the question that I thought it was pertinent to ask Mr. Tawney that question.

PRINCIPAL DEFECT IN PRESENT LAW.

Mr. TAWNEY. Now, I want to discuss for a moment Mr. Cabell's testimony in regard to the principal frauds that are being committed to-day under the existing law. Mr. Cabell, when before your committee, said, on May 11, page 286 of the hearings:

Now, as I said, if a man is going into this business on a big scale he will buy ten 60-pound packages. They are boxes or tubs or firkins, as they are called, holding 60 pounds, and each one has a stamp on the end of it, stating the name of the manufacturer and the date, and so forth, and showing that it is artificially colored and tax paid at the rate of 10 cents a pound; it is in bulk, 60 pounds in it. He gets 600 pounds and pays the price, which includes the \$80 tax. He puts that in his place of business and sells out of these various boxes, but he never lets them get quite empty. The law requires that when these boxes get empty the stamp shall be destroyed. The courts have decided that as long as these boxes or receptacles contain any quantity of merchantable oleomargarine they are not empty, and consequently they can not destroy the stamp. Now, having let the contents of these boxes or firkins get down to a pound or two pounds each, he will buy a great number of cases of oleomargarine stamped at a quarter of a cent a pound, and have them delivered to his store. You will find them in the upper floor incased in pressed-steel sheets, or we have found them in the basement or rooms adjoining the store; it depends on what chances a man is willing to take; and he will have on that upper floor or in that basement or adjoining room a little apparatus for heating. You do not have to heat it very hot. Less than 100 degrees will make the material plastic; then he will have a little churn in there, sometimes worked by a little gasoline engine and sometimes worked by hand power, and he will take those packages of uncolored oleomargarine and put them in this room, where they will be heated until they become plastic, and he will have his coloring matter mixed with a little milk or something like that, stir it up, and have it in the churn; he will just pour his uncolored oleomargarine into the churn, have his colored package empty, all except one pound, and convenient, give the dasher half a dozen turns, and pour the product out in the package with his 10-cent stamp, and he is safe.

Now, that fraud can be perpetrated only in secret, and, as Mr. Cabell stated to this committee, one of the serious defects in the existing law is the fact that the courts have held that the inclusion of certain sections of our internal-revenue law in the present oleomargarine law excludes all others, and the section of the internal-revenue law which permits the courts on the application of an internal-revenue officer to issue a search warrant does not apply in the enforcement of the present oleomargarine law, and that not applying it is therefore impossible for the agents of the Government charged with the duty of collecting this revenue to make any search of premises where they have reason to believe the fraudulent manufacture of oleomargarine is carried on, for the practice detailed here by the commissioner constitutes that man a manufacturer, and he would be subject to a tax of \$600 a year, and in addition to that a tax of 10 cents a pound on the product which he is thus fraudulently manufacturing. The right of search, therefore, is one of the chief essentials in the enforcement of this internal-revenue law, as well as in the enforcement of all of our other internal-revenue laws, but the Government does not at present possess that right, under the decisions of the courts.

Mr. STANLEY. Right there, Mr. Tawney, if the right of search could be incorporated into this law or into the proposed law with all the other summary remedies known to the Internal-Revenue Bureau existing, do you think a tax would be necessary then?

Mr. TAWNEY. Yes, sir.

Mr. STANLEY. I mean a differential tax.

Mr. TAWNEY. Yes, sir; I mean a tax differentiating between a product manufactured and sold in its natural color and that same product colored and sold in imitation of that which it is not. That, I think, makes a clear distinction, and that is one of the chief reasons for the tax that was put upon colored oleo. It was to make the distinction between oleo as it is in its natural condition and oleo as it is when colored and in an unnatural condition.

UNSCRUPULOUS DEALERS TAKE ADVANTAGE OF THIS DEFECT.

But bear with me one moment while I speak further in regard to this fraud. Every unscrupulous dealer throughout this country knows that the Government does not possess the right of coming into his place and searching his premises for any purpose whatever without a search warrant, and he also knows that under the decisions of the courts of the United States that search warrant can not be obtained by an officer of the Government whose duty it is to collect this tax. Therefore he has the incentive to perpetrate this fraud in the profit that there is in it, and he has practical security in the perpetration of that fraud, because the Government has no means of ascertaining or obtaining sufficient proof to secure conviction, even though that fraudulent product is manufactured on the premises of a man who is selling it.

Therefore if these provisions of the internal-revenue law which enable the Internal-Revenue Bureau to enforce other revenue laws were made applicable to the enforcement of the oleomargarine law, and if, in addition to that, the right were given to impose a penalty as the Internal-Revenue Bureau may do to-day, up to the amount of 50 per cent, it would enable the Internal-Revenue Bureau to put a stop to the frauds concerning which so much complaint has been made here before this committee, and to prevent which the author of this bill has introduced the bill, judging from his own statement at the beginning of these hearings. I will refer later to a provision in the sundry civil appropriation bill which will, if enforced, put a stop to the frauds now complained of. When before the Committee on Appropriations, the Commissioner of Internal Revenue pointed out that this was the chief difficulty in the prevention of fraud upon the revenues of the Government, and that is all that the Internal-Revenue Bureau is concerned about. I may also say that it concerns itself about nothing else except the collection of the revenue, because ever since the days of Mr. Wilson, whom I regard as one of the ablest Internal Revenue Commissioners we ever had, this law, or any other special internal-revenue tax law, has never been regarded with favor by the Internal Revenue Bureau for the reason that it involves to a greater or less extent the policing of the manufacture of an article, which that bureau has always claimed is outside of its function, it being a revenue-collecting department and not a police department. And therefore any function which involves the service of internal-revenue agents or officials as policemen and detectives has not been looked upon with favor by that department. But, as the Commissioner of the Internal-Revenue Bureau said to me, "If all the provisions of the internal-revenue laws could be extended in their application to the oleomargarine law, we could

then enforce that law and protect the revenues of the Government." I therefore inserted this clause in the appropriation for punishment for violations of internal-revenue laws:

PROVISION PROPOSED TO MAKE LAW MORE ENFORCEABLE.

Punishment for violations of internal-revenue laws: For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws or conniving at the same, including payments for information and detection of such violations, one hundred and fifty thousand dollars. And in the enforcement of any law by which an internal-revenue tax is authorized, the general provisions of all internal-revenue laws relating to the enforcement, assessment, and collection of internal-revenue taxes, are, so far as applicable, hereby extended and made applicable to the enforcement of such law and the assessment and collection of the tax thereunder; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum, and also a detailed statement of all miscellaneous expenditures in the Bureau of Internal Revenue for which appropriation is made.

The **CHAIRMAN**. Are you reading from the pending bill?

Mr. TAWNEY. No; I am reading from the Sundry Civil appropriation bill. It appears in the current law, where I have added in the body of this paragraph, just after the \$150,000 item, the words:

And in the enforcement of any law by which an internal-revenue tax is authorized, the general provisions of all internal-revenue laws relating to the enforcement, assessment, and collection of internal-revenue taxes, are, so far as applicable, hereby extended and made applicable to the enforcement of such law and the assessment and collection of the tax thereunder.

That is the provision which I have inserted.

The **CHAIRMAN**. That, I understand, is a new provision proposed for the current bill?

Mr. TAWNEY. Yes; a new provision now pending in the bill as reported from the House Committee on Appropriations about two weeks ago, and, of course, being new legislation, it will be subject to a point of order. But I am certain that no gentleman in favor of preventing fraud either upon the revenue, the consumer of butter, or the producer of butter will make a point of order against that provision; certainly not the author of this bill, or any other bill pending before this committee, because he has said that he is especially anxious to stamp out the fraud in the manufacture and sale of oleomargarine. When the commissioner made the statement I have referred to I commenced to consider how we could best extend these laws at this session of Congress, and I wrote the provision I have just read. I know it will meet the approval of Mr. Burleson, of Texas, and every other friend of cotton-seed oil or the beef raiser or the manufacturer of oleomargarine, all of whom say here that they are desirous of putting that business on an honest basis, where fraud can be detected in the event fraud is committed.

Mr. BURLESON. We are going to put in a stronger provision than that in this bill.

Mr. TAWNEY. Yes. When you do that and your bill becomes a law I will be willing to withdraw this.

Mr. LEE. Right there, Mr. Tawney, one moment: You speak of the trouble of enforcing the law. Have we not the same trouble in the manufacture of liquor and in the transactions of the rectifiers?

Mr. TAWNEY. Yes; but they can avail of these penal provisions in the internal-revenue law that are applicable. An internal-revenue officer or agent who has reason to believe that liquor or any sub-

stance upon which there is a revenue tax, except oleomargarine, is being manufactured fraudulently, can on his own application go to court and procure a search warrant and search the premises and ascertain.

Mr. LEE. That is what I wanted to get at.

Mr. TAWNEY. But under the decision of the court it is held that this right of search is not possessed by the Government under the existing oleomargarine law, and the agents or representatives of the Internal-Revenue Office now are unable to obtain a search warrant. During the first years of the enforcement of this law there had been no decisions to that effect, and the courts granted search warrants on application. During the administration of Mr. Yerkes as Commissioner of Internal Revenue he went into a number of factories with the warrant of the court to justify his entrance into the premises, but in each case the owner did not know that he had no right or that the court had no right to issue that search warrant. But since that question has been decided they have not been able to obtain search warrants for the purpose of investigating or examining premises to determine whether or not oleomargarine was being manufactured fraudulently.

BURLESON BILL OUGHT NOT TO BE FAVORABLY CONSIDERED.

Now, Mr. Chairman, taking into consideration, then, the fact that this bill would in effect nullify the laws of 32 States which prohibit the sale of oleomargarine; would afford to the dealer the opportunity to strip the package of the wrapper and the internal-revenue stamp, firkin his product and sell it for that which it is not, to a greater extent than he can to-day; taking into consideration also the fact that this bill limits the definition of a manufacturer to the person who manufactures the product originally, and does not define, as the law does to-day, a manufacturer to be one who buys uncolored oleo and colors it for sale; and taking into consideration the fact that there is a more simple and equally effective remedy for the frauds upon the revenue of the Government than that proposed by this bill, namely, in the provisions of the sundry civil appropriation bill, which is now pending before the House of Representatives, I think that this Burleson bill ought not to receive the favorable consideration of this committee.

Mr. BEALL. Right there, Mr. Tawney, let me ask you just one question. If these additional safeguards are thrown about it, would you be willing for the tax on the uncolored oleomargarine to be a quarter of a cent a pound and the tax upon the colored to be 1 or 2 cents a pound?

TAX ESSENTIAL TO MAKE COLOR DISTINCTION AND EQUALIZE DIFFERENCE IN COST OF PRODUCTION.

Mr. TAWNEY. I would not. I would not, for the very reason that the tax on colored oleo affords a protection to the producer of butter that he can not get in any other way. I do not care to take the time of the committee—

Mr. STANLEY. I do not want to interrupt you except to make it still more plain. I did not have the pleasure of hearing you all the way through, though I always hear you with pleasure—

Mr. TAWNEY. The same here——

Mr. STANLEY. As I understand you, you desire the tax both because it emphasizes the difference between the oleomargarine and the butter, and because the tax itself deters the manufacture of oleomargarine or increases its cost when manufactured and in that way is a protection to butter; in other words, a protection to the butter maker by forcing the oleomargarine manufacturer to sell his product for 10 cents more than he otherwise would sell it for?

Mr. TAWNEY. If the oleomargarine manufacturer wants to sell his product in the semblance of that which it is not, and if that product can be produced at a cost of 10 cents a pound below what it costs the farmer to produce the genuine product, I contend that the tax is necessary to equalize the conditions between the producers of both products in the open market.

Mr. STANLEY. I understand you would prevent the manufacture and sale of colored oleomargarine under any conditions, legally or illegally, at less than the cost of the manufacture of butter?

Mr. TAWNEY. Yes. It makes a clear distinction between oleomargarine as such and oleomargarine in the semblance of butter.

Mr. STANLEY. I think you voice the sentiments of the great majority of the advocates of this tax, but you are characteristically unique in your courage and candor in making the statement.

Mr. TAWNEY. I never make a statement in behalf of anything I am not in favor of.

Mr. RUCKER. You referred a while ago to the fact that 32 States in the Union had statutes prohibiting the sale of oleomargarine, colored or uncolored oleomargarine, or both?

Mr. TAWNEY. Yes, sir.

Mr. RUCKER. And this proposed law providing for the sale of oleomargarine in the original packages under the decision of the Supreme Court of the United States would practically annul those statutes of the States?

Mr. TAWNEY. Yes, sir.

Mr. RUCKER. Suppose a provision were added to the bill providing that these original packages, as soon as they entered the State, should be subject to the police regulations of the State. Would not that relieve that difficulty?

Mr. TAWNEY. That would relieve that phase of the difficulty, but it would also withdraw from the support of the bill a great deal of the influence that is now behind it. [Laughter.]

Mr. RUCKER. That may be, but it would leave the state laws enforced now in the States which have enacted those laws?

Mr. TAWNEY. Yes. I do not think, if we were to expressly provide that these packages, or this product in whatever form it entered a State, should immediately upon entering a State become subject to the police laws and regulations of that State—I do not think then that the state laws would be ineffective. I think then the state law would be enforced, and it would put a stop to it. But nevertheless, even though such provisions are in the state laws, the manufacturers and dealers in oleomargarine, according to the testimony of the Internal-Revenue Bureau, are violating the state laws, because they are selling their product in these States which to-day prohibit its sale.

Mr. RUCKER. I think all of us concede that it must necessarily be regulated in the States and enforced by state law.

Mr. TAWNEY. Our jurisdiction over this is only because we impose a tax upon the product, and our right to regulate its manufacture and sale depends entirely upon the fact that we are exercising the taxing power of the Government.

Mr. COCKS. What would you say about the preventing of the manufacture of colored oleomargarine?

Mr. TAWNEY. I do not think the Federal Government has the power to do it. I do not think it has. We get jurisdiction over the subject under the taxing power of the Government.

Mr. COCKS. We tax it at one quarter of a cent a pound now.

SALE OF OLEOMARGARINE IN ITS NATURAL COLOR NOT COMPLAINED OF.

Mr. TAWNEY. Yes; and that tax was imposed upon uncolored oleomargarine for the purpose of enabling the officials of the Government to maintain supervision and control over the manufacture of the article in its natural state, and at that time the friends of this measure were willing to allow the manufacture of uncolored oleomargarine, and even to-day the dairymen do not object to the manufacture of oleomargarine in its own color.

Mr. STANLEY. Under the present law the Federal Government has no jurisdiction whatever over any fraud in the manufacture or sale of oleomargarine excepting in so far as it enters into interstate commerce, and the jurisdiction it now exercises is an instance of the exercise of the taxing power?

Mr. TAWNEY. Yes; and so far as it is necessary to protect the revenue of the Government from fraud; and any other protection resulting to the individual, the consumer, or the producer is an incident to the necessity of the enforcement by the Federal Government of the payment of the tax.

Mr. STANLEY. Do you think it is good policy, Mr. Tawney, as a general principle, either to invade the police powers of the States or to use the taxing power, with the espionage and policing that is necessarily incident to it in this character of legislation, except where it is absolutely necessary? As a general principle you think it is not wise to do it?

Mr. TAWNEY. I said in the consideration of this bill ten years ago on the floor of the House and on the floor of the committee that I believed the Federal Government is justified in exercising the taxing power of the Government for the protection of the public health and for the purpose of preventing fraud, if that can be done without violating the principles of the Constitution; that is, under the taxing power.

Mr. STANLEY. I evidently did not make myself sufficiently clear. If fraud can be prevented by other legislation, do you believe that it is well to invade the police powers of the States and pass laws infringing upon the rights of the States and weakening the autonomy of the States? When you destroy the police powers, you are done with this principle of local self-government. That is "the last of the Mohicans," the last rampart, the last bulwark, the last prerogative, the last principle that goes. Most of them are gone now, except that.

Mr. TAWNEY. I am not in favor of the Federal Government invading the police powers of any State, nor am I in favor of the Federal

Government's doing anything that will take away from the people the right of self-government.

Mr. STANLEY. That is my opinion, and I have heard you express yourself very forcibly upon it. Now, I believe you and I are seeking the same end. I think the committee will agree, and I think you will agree, upon this proposition: That if the end that we are both seeking is the absolute prohibition of an artificially made product as a substitute for butter under the guise and semblance of butter, and if that prohibition can be accomplished effectively by a more direct and orderly and regular method, don't you think it would be better that we should adopt that method? The production of a fraudulent imitation in the disguise of butter is commercially dishonest, and it is morally wrong, and it is an injustice to the manufacturer of butter; and I am as heartily opposed to it in principle as you are. It is only in the choice of means to the desired end that we differ. If this can be done without a system of espionage, which is always hateful to a liberty-loving people, without subjecting the innocent and the guilty alike to the irritation and mortification of having sleuths and detectives following at their heels, don't you believe it would be better to do it that way than to invade the police powers of the States by a fiction of the law, because we are not exactly honest when we put a taxing measure upon the statute book which is not intended to raise a cent of tax? If this can be done by regulations that do not impugn or deny the honesty of the manufacturer, don't you think that would be the preferable way?

EXERCISE OF TAXING POWER ONLY MEANS OF PREVENTING FRAUD.

Mr. TAWNEY. I understand your question thoroughly, Mr. Stanley. The difficulty in the way of accomplishing what you say might be accomplished, and which, if it could thereby be accomplished, would be better than by the present method, is in the fact that the Federal Government has no jurisdiction, has no power, to regulate the manufacture and sale of this product so as to stamp out the fraud and prohibit the sale of oleomargarine for that which it is not unless it is through the exercise of the taxing power of the Government.

FILLED CHEESE AND ADULTERATED FLOUR.

Now, we have done the same thing in the manufacture of filled cheese, through a bill that was considered by the Ways and Means Committee and reported by that committee, after introduction by myself, a number of years ago. Filled cheese was manufactured in this country to such an extent that it was driving out of the American market our very best New York cream cheese. The manufacturers of cheese in this country were shipping their product to Canada and exporting it to Great Britain and other European countries as Canadian cheese in order to avoid the odium and discredit which attached to our product in the foreign markets. Through the exercise of the taxing power of the Government the honest cheese-making industry has been preserved to the people of this country, and the tax and the restrictions under which filled cheese has to be manufactured now are such that that product has practically been driven out of existence.

The same is true as to the practice of adulterating wheat flour,

which was prohibited by another bill which was reported from the Ways and Means Committee in 1898, and which was attached to the Spanish-American war revenue bill. At that time certain manufacturers of flour were using ground barytes, mineraline, and other substances which resembled flour, and which were much heavier than flour. I remember that in North Carolina there was a factory manufacturing mineraline and advertising and announcing to the millers that mineraline could be mixed with their flour to the extent of 16 per cent, and stating the extent to which it would increase the weight and their profit in the business, and offering to send on a mixing machine with a carload of the mineraline. I obtained samples of mineraline and sent some of them to the experimental station of the State of Minnesota, and under the supervision of Professor Snyder those samples were analyzed, and it was ascertained that 66 per cent of that material was feldspar rock. Through the exercise of the taxing power of the Federal Government that nefarious practice was wiped out of existence, and we no longer are troubled with the adulteration of flour. But if it had not been for that resort to the taxing power of the Government and its exercise in that emergency that criminal practice would probably have gone on until it had destroyed the great milling industry of this country and the health of the American people, because of the indigestible substances that were used in the adulteration of flour. In cases of that kind, where a practice has grown up and become national, spreading all over the country, where it is impossible for the States to deal with it efficiently in the exercise of their police powers, I think, for the benefit of the public health, the Federal Government is amply justified in exercising its taxing power for that purpose.

Mr. STANLEY. We reach those things now under the pure-food law, don't we?

Mr. TAWNEY. I don't think they could manufacture adulterated flour under the pure-food law now as they were manufacturing it at the time I mentioned. But the law that I referred to was passed before the day of the pure-food law. I thank you, Mr. Chairman and gentlemen, for your attention.

Mr. RUCKER. I am satisfied that South Carolina has used a great amount of that flour, because that would account for the amount of sand that is exhibited by the gentleman from that State.

Mr. TAWNEY. That was the State of North Carolina, not South Carolina.

Mr. FLANDERS. Now, Mr. Chairman, we have no more witnesses on our side.

The CHAIRMAN. I am advised that Mr. Burleson will close for the proponents of the bill, and he tells me that if he is not interrupted he thinks he can conclude in twenty minutes.

**STATEMENT OF HON. ALBERT S. BURLESON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS.**

Mr. BURLESON. Mr. Chairman and gentlemen of the committee, it is my purpose to detain you for only a very brief period in summarizing for those who favor amending the law taxing this desirable food product. At the outset I direct attention of the committee to what I said at the beginning of this hearing the advocates of the repeal of this burdensome tax would show in support of our bill, with a view to enable the committee to determine for themselves whether we have made good upon the various propositions then announced. First, and I read from my preliminary statement:

We shall direct our attention first to showing the wholesomeness of oleomargarine, chemically, and also as a result of rigid inspection.

It is not my purpose to discuss whether we have shown this, because, as I understand it, by a vote of the committee on yesterday, during a time when I was absent, without a dissenting voice from a single member, it was agreed that oleomargarine as now made is wholesome, nutritious, and pure.

Mr. McLAUGHLIN. We said we did not care to hear any more testimony on it.

Mr. RUCKER. I do not think there was a vote taken on it. That is not my understanding of it.

The CHAIRMAN. In order that it may be in the record accurately, I will state that the question came up in this way: "Does the committee desire to hear any further evidence touching the wholesomeness and nutritiousness of either butter or oleomargarine?" And on that question the committee unanimously voted no.

Mr. BURLESON. Such being the case I shall accept that proposition as established and discuss it no further. I further said:

Second. We will address ourselves to showing the demand upon the part of the consumers of this product, of the laboring people, the retail grocers, retail butchers, and other people who are interested as consumers of it.

Mr. Chairman, I hold in my hand resolutions which have been adopted by boards of trade, chambers of commerce, industrial bodies and labor organizations throughout the country demanding the repeal of this tax in the interest of those who desire to use it. We expect to prepare a summary of these resolutions when we have received all of them and to furnish it to this committee for their information. The only protest against the repeal comes from a class who are benefited because, by reason of this tax, they can secure a higher price for a product they sell in competition with oleomargarine.

Third. We will next address ourselves to the proposition that the tax as it now exists reduces the consumption of this product (oleomargarine) in the interest of a higher-priced product.

In support of that proposition you will recall that we introduced statistics compiled by government authorities, showing the amount of oleomargarine being manufactured at the time of the passage of

the act of 1902, and how production immediately decreased; and further supporting this proposition that this law was in the interest of a higher-priced product we introduced testimony from the same source, showing that the cost of butter had advanced just as the production of oleomargarine decreased—and it was as predicted by the opposition at the time of the passage of the Grout bill. For some time they have been receiving 40 or 50 cents per pound for this product. And as throwing some little light on this proposition and also on how thoroughly a man can be discredited as a prophet, I want to read a short statement made by Brother Flanders in 1902 upon this very proposition. In response to a query he said:

I shall stake my reputation now as a prophet—I would not a moment ago—upon the proposition that when you put butter at 30 cents or above, cows enough will come forward to keep the price of butter down. That would not ever happen ordinarily, etc.

So that those who appeared before the Committee on Agriculture in 1902 are not only discredited as prophets as to the effect the law would have on the price of butter, but their cock-sure assurances before the committee at that time that if we passed their bill it would prevent fraud not only upon the consumer, but upon the Government, in so far as it effected its revenue, are thoroughly discredited. I read further from our preliminary statement:

Next we intend to bring Doctor Melvin here, if we can get him, and Doctor Schroeder, and those who have made these charges referred to by Mr. Lever, the gentleman from South Carolina, a moment ago in the bureau reports, and show the prevalence of impurities in butter [as compared with oleomargarine].

We have brought Doctor Melvin before you. We introduced before this committee excerpts from his reports upon this subject and his testimony in support of the correctness of same. We brought Doctor Schroeder before you, testifying as to the result of years of experiments made by him with a view to ascertaining whether cream and butter contained impurities that were injurious to health. It is for you to decide whether we have shown that there is danger from this source and whether legislation is needed to protect the people therefrom.

I read further from the first statement:

Next we are going to show you the reason why they use coloring matter in butter.

Now, have we shown you why the creamery places coloring matter in butter? Is it not, according to their own confessions, in order to increase the price of the product, to appeal to the taste of those who consume it? If so, why should not the manufacturers of the cheaper substitute be accorded the same privilege? Why should not the makers of oleomargarine be given the same right? Have they not the same moral right to increase the value of their product, and ought they not to have the same legal right to increase the value of their product, and ought they not to have the same right, moral and legal, to pander to the taste of those who consume oleomargarine by giving it a color that will suit the taste of its consumers? Next:

We are going to address ourselves then to the testimony of the Chief of the Bureau of Internal Revenue as to the features of the existing law, as compared with the features of the proposed pending bill, as to the increase of revenues that will be secured—and the prevention of fraud.

Now, gentlemen, have we made good upon the proposition laid down in the beginning of this hearing, that frauds have materially

increased under the administration of the act of 1902 as compared with the frauds under the act of 1886? We brought the Commissioner of Internal Revenue here before you, a man of intelligence, who shows that he has a thorough grasp of the affairs of the office he is administering, and he has told you that it is impracticable, if not absolutely impossible, to enforce the present oleomargarine law in so far as the prevention of frauds is concerned, not alone upon the consumer, but frauds also against the revenue of the Government; and he appeals to you, as he has repeatedly done in reports sent to Congress by the Secretary of the Treasury, for additional legislation to enable them the better to enforce the revenue laws, to better enforce the laws to prevent fraud upon consumers. Are there frauds? Have we shown them? Why, out of the mouth of one of their own spokesmen it is shown that thousands of dairymen engaged in supplying creameries and the manufacture of butter are fraudulently engaged in selling oleomargarine, committing not only fraud against the revenue of the Government, but committing frauds against the consumers who purchase from them. Next—again reading from my opening remarks:

We will show the combinations that are now in control of the dairy interests in this country, the effect upon the small percentage of farmers who are patrons of these creameries, and then the effect on the general consumer, showing the inequities and injustice of the existing laws.

I have read from the report of the Chief of the Bureau of Animal Industry concerning the change or movement that had taken place under the operation of this law in Kansas, Nebraska, and southern Iowa, where the centralized creameries have crushed out of existence many of the small creameries that were engaged in business at that time and concentrated or centralized them into a few general creameries, who exact of the farmer the delivery of his product at the very lowest cost and sell to the consuming public at the highest cost. These conditions we have shown to exist, by reading excerpts from impartial government reports.

I interrupted one of the representatives of the dairy interests and called his attention to these reports, and asked him if he would take exception thereto, and not one word has been offered by the dairy people to controvert same or to rebut either one of the propositions I have just set forth. I insist, with confidence, that we have conclusively established each proposition originally laid down by us.

Now, gentlemen, what answers have been made here to our insistence that we can offer you a bill that will reduce the frauds that are committed against the Government and reduce the frauds that are being committed against the consumers? The Commissioner of Internal Revenue pointed out to you and made plain—and these gentlemen have not been able to controvert his statement, even in the slightest degree—that the greatest incentive to fraud was the disparity in the tax between the colored and the uncolored product; that the fact that one tax was forty times as great as the other appealed to the cupidity, to the mercenary spirit of the small dealer, prompting him to violate the law in order that he may make an exorbitant profit.

Now, we assert with confidence that under the provisions of the bill as introduced by me, and under the provisions of the bill as introduced by Mr. Lever, providing for the sale of oleomargarine in the original package, following it from the manufacturer of oleomargarine to the wholesale dealer, following it from the wholesale dealer to the retail

dealer, following if from the retail dealer to the one purchasing same as consumer, and requiring that it be sold in the unbroken package, penalizing it as an offense if the package is broken—that it reduces the possibility of fraud against the consumer, against the Government, and the chances of its violation to a minimum. When one of the representatives of the dairy interests, speaking before this committee, was invited to point out if there are defects in this part of the bill, when he was asked, "If you can make it more stringent, if you can suggest an amendment or added provision that will lessen the chances of fraud, point it out," and he was absolutely unable to do it.

And what have the opponents of these bills suggested here? One of the gentlemen, our Brother Nelson, taking up man at the time or period of his aboriginal simplicity, pictured him surrounded by the faithful dog as his protector, the plodding horse to furnish him power and transportation, the patient sheep to furnish him with clothing, and the cow—his best and last friend of all—to furnish him with food, milk, and butter, and eloquently and earnestly insists that those conditions should be undisturbed and should be permitted to continue. My distinguished friend overlooks the everlasting, stubborn fact that "the world do move." We all know that man constantly moves forward and that we especially live in a progressive age. Man no longer depends upon the dog for protection; he prefers to rely upon the electric burglar alarm and a self-cocking repeating pistol to guard him against harm. He no longer wants to rely upon the plodding horse; he prefers a rubber-tired automobile for purposes of transportation, and the steam engine for his power. He no longer looks to the patient sheep to furnish him with insanitary garments for purposes of clothing; he prefers vegetable fiber for his clothing, cotton and linen. And as for the cow, why, the time is here when civilized man, the real up-to-date man, has become a vegetarian, and the time is coming, and is very near, when he is going to require that his milk shall be pasteurized and that his butter shall be compounded in a laboratory and subjected to a heat that will remove every possibility of there being tubercular bacilli and typhoid bacilli or any other germs in it that would threaten or impair his health or bring injury to those dependent upon him.

Now, that is the sum and substance of Brother Nelson's argument before this committee. Every witness we introduced here—and I appeal to the fairness of this committee to bear witness if it is not true—every witness who has been brought forward here to speak for the cotton planters and the cattle growers of this country, who earnestly ask for the amendment of the existing law, has spoken without reserve and with the utmost candor; not one attempting to evade or dodge; not a single witness being obliged to hurry away to catch a train in order to meet an appointment; not a single witness who declined to answer even hypothetical questions when propounded. On the contrary, every man responded readily to the queries propounded by the members of this committee. But when the gentlemen who ten years ago were so cocksure about their statements; who, when the Grout bill was pending, asserted that if you would give them the present law they would absolutely protect the consumer and the Government against fraud—how have they answered? What has their law accomplished?

We have shown you, unless you are going to discredit the statement of the government revenue officers, that it has neither prevented fraud against the consumer or the Government; and now when we come forward with a proposition that minimizes the possibility of fraud, what do they insist on? They still insist not alone upon a color distinction, and that same shall be made more burdensome, but they also say, "You must give us the 10-cent tax." The honest old Dane who came here to testify for the butter people, while speaking on these points became very much embarrassed. He was an honest man; he did not want to dodge a question by giving an evasive answer, and when his questioner pressed him and pressed him on these contested points, he finally said, "Well, I will answer if our president (meaning Mr. Flanders) says I can answer." And what did he finally tell you? He told you that in Denmark, one of the most progressive butter-making countries in Europe, there is no tax whatever upon oleomargarine, and they permit it to be colored a certain shade of yellow, No. 9. And do you know why this tinge of yellow is allowed? You will recall the old Dane said England was Denmark's principal customer, and an investigation will disclose that the English taste is educated up to require butter of the color of yellow No. 9, and that is the reason they authorize this color and do not permit it to go above that; not a reason antagonistic to the oleomargarine manufacturers, but in their interest. Mr. Chairman, the sense of justice and fairness of some European nations has been so highly developed that they do not want to perpetrate a wrong against one industry in order that another may prosper. They would shudder at a suggestion that the taxing power was to be used or prostituted in order that one industry might be built up at the expense of another; one class taxed for another's benefit.

I understand that my brother from Nebraska, ex-Representative Hayner, during my absence addressed the committee and disclosed what he thought a mare's nest in the proposition that the bill introduced by me repealed in its entirety the act of 1886, and that if my bill was enacted into law there would be no tax whatever upon oleomargarine and that the law of 1886 would be as inoperative as it is under existing conditions. Now, I do not agree with my brother about that, but even so, if my brother was as familiar as I am with the methods of this committee when they come to prepare a bill which they intend to report; if he had seen, as I have seen, a bill dissected section by section and every care possible exercised to perfect it, he would know that even if he was right and I was wrong there would be no difficulty about embodying a few words in this bill that would remove all possibility of doubt on that score. As far as I am concerned, as I have said, I do not think it necessary, but I would be willing to have the provisions of the act of 1886 reenacted into law, section by section, in order that there should be no possibility of this bugaboo which seems the cause of so much worry to Congress.

Another proposition discovered by some of the advocates of the creamery butter is that the provisions of the law giving the State control over oleomargarine when it enters the domain of the State are being repealed by the terms of my bill. Personally, I do not believe that any attempt by the Federal Government to surrender to the State control over articles entering into interstate commerce would be constitutional. I believe that it is as impossible for the Federal Govern-

ment to surrender back to the States one of the powers delegated to it by the States as it would be for the Federal Government to reach out and filch from the sovereign States one of the sovereign powers that was reserved by the States. But that is neither here nor there. That is my personal opinion. In order to remove the bugaboo, in order to strip it right down to the proposition as to whether or not you are going to continue to lay a burdensome tax upon a wholesome food product, I will say, for the purposes of this discussion and for the purposes of the bill I support, you may reembody that section in the bill. I care nothing about it.

The gentleman from Minnesota (Mr. Tawney) said this morning during his argument that 32 States prohibited the sale of oleomargarine. He did not mean that. If by state legislation they attempted to prevent the shipment and sale of oleomargarine, a wholesome food product, in one of the States it would be in my opinion an unconstitutional law. Thirty-two States prohibit the sale of oleomargarine colored in semblance of butter. That they have a right to do this probably, in the exercise of their police powers, but they have no right to prohibit the shipment and sale of oleomargarine entirely. He says further that they could continue to sell it fraudulently under the provisions of the Burleson bill. He says one could secure a carload lot of oleomargarine and strip these wrappings and stamps from these packages, and then offer it for sale. If the dealer did that, every time he sold a package of it, it would be a violation of the federal law; because under the original package provision, embodied in my bill, it is made a violation of the law to sell the package in a broken condition, making it impossible to deceive the consumer without violating the federal statute.

Gentlemen, he said that he is trying to embody in the sundry civil bill a provision which will materially aid in correcting the defects of the present law. But before discussing that, another matter was touched upon by the advocate of the dairy interest. If the original-package provision is so foolish and so futile in the bill introduced by me as he insists, what peculiar divinity is that that hedges about the McHenry bill that makes the original-package provision embodied in that bill any more potent, any more effective, than the one that is embodied in mine?

It would be an easy matter and I can point out a number of defects in the original-package provision of the McHenry bill. It does not begin to be as strong as the original-package provision in my bill. The provision in my bill makes it impossible, as I have stated, to put into the hands of the consumer, the man who makes the final purchase, a package of oleomargarine without his knowledge that he is buying oleomargarine, and it is impossible to get away from it. Now, gentlemen, Mr. Tawney has alluded to the fact that he has embodied in the sundry civil bill certain provisions that he thinks will tend to aid in eliminating the fraud, or decreasing the frauds that are at present perpetrated under existing law, thereby confessing what the dairy people insisted in 1902 would not come about, that the Grout law is defective, that it is unenforceable, and that they need other agencies of the Government to prevent fraud on the consumer and aid in collecting revenue under this law.

Mr. Tawney says that he is sure that no one who wants to prevent fraud will raise any point of order against this provision in the sundry

civil bill. Well, I am sure that no man interested from the standpoint of the cotton producer or of the cattle raiser would make a point of order against it if that was the only proposition involved. We stand against the fraudulent sale of oleomargarine just as earnestly, just as strongly as Mr. Tawney or the president of the dairy union himself. As an evidence of our good faith in this matter, if you find that this provision relating to sale in the original package in my bill is defective in any particular, I invite every member of this committee to try his hand upon it, with a view of making it more effective; but I will tell you what we do object to in the matter of the sundry civil provision alluded to, and the point of order will be made against it, because under that provision, as embodied in the sundry civil bill, the most unnecessarily vexatious and burdensome conditions would be imposed upon the manufacturers of oleomargarine. This effort shows how utterly reckless, how utterly without regard, the people who speak for the butter interests are of the welfare and of the interest of those who are endeavoring to manufacture a wholesome and cheaper substitute for butter. Why, the provision as drawn by Mr. Tawney and embodied in this bill would require all the burdens of a bonded warehouse system to be applied to the manufacture of oleomargarine; all the onerous provisions of the official storekeeper, and innumerable other high-priced officials, the cost of which is to be borne by the oleomargarine manufacturer; thereby imposing an additional burden upon those who are attempting to supply the people a cheaper substitute for a high-priced food product.

Gentlemen, strip it right down to the real proposition at issue, and that is what they have been trying to get away from here: Shall butter have a competitor in this wholesome substitute? In the McHenry bill they carry a provision which, if enacted into law, would make it impossible to manufacture oleomargarine during certain periods of the year at all, make it utterly impossible to manufacture it, because one of the provisions of the law says that no oleomargarine shall be manufactured with any shade of yellow, unless it bears the 10-cent tax. But if they did manufacture it by some newly discovered process—and the American manufacturer is an ingenious individual, and they might discover some way in the future by which they could manufacture oleomargarine without any shade of yellow—if they did it, then the McHenry bill continues the very proposition, the very incentive, for the commission of fraud, which brings about so many violations of law, as shown by the Internal-Revenue Commissioner, because the buttermen's bill provides for a quarter of a cent tax on the uncolored oleomargarine and a 10-cent tax on the colored product. We would still have frauds, the same difficulty in enforcing the law we now have.

You will note that the McHenry bill would lay additional burdens on this industry. We insist the present burdens be removed.

Now, here is the proposition that we present you, and it comes right down, and it is for you to determine: Shall the making of oleomargarine be continued and shall it be an untaxed competitor with butter? We said to you in opening that the present law needed amendment; that this was necessary to prevent frauds. The Secretary of the Treasury in his annual report shows that by doubling the ordinary appropriation he can not enforce the law as it stands; that he could not prevent the frauds. We have shown you that the great incentive

for the fraud is the disparity of this tax. Now, when you come to amend the law, we ask you to remove this disparity. These gentlemen said ten years ago they had the remedy. At that time I was a Member of Congress, and I resisted this law. We were satisfied then that it would prove ineffective. We insisted then that a bill drawn substantially like this would prevent fraud. Mr. Tawney is right; this is substantially the Wadsworth substitute that was offered at that time for what is now the law. We insisted that it would prevent fraud. We have invited the dairy interests to point out how it can be strengthened in a single particular, and they have failed to do so.

Now, give us an opportunity to try the proposition that we bring forward, and see if we can not protect the revenue of the Government against fraud and at the same time protect the consumer from being defrauded. The gentlemen speaking for the butter interest recognize the efficacy of this measure, because you find the president of the dairy union and the associate editor of Hoard's Dairyman all hedging behind one proposition as a last refuge; and that is, that this bill, if law, will afford no protection to a man that patronizes the hotel, it can not protect a man that goes into the boarding house, from being deceived; and one of them in his desperation said it will not prevent a man from deceiving his wife and children as to the contents of the package. What Mr. Tawney said here this morning was well said; relief of this character or laws for this character of protection falls within the domain of the police power of the States. New York has an effective state law protecting every consumer of oleomargarine against imposition. Every State in the Union which feels that it is necessary to do so can pass a similar law. If you will pass this bill as I have introduced it here, without an amendment, I say to you, and I say it with confidence, that we can prevent the final purchaser of oleomargarine from being deceived into the belief that he is buying butter.

Mr. McLAUGHLIN. You have passed something that I wanted to question you on, a few moments ago, but I think you are unfair in charging this Grout law altogether to the dairy people, because it seems to me that it has been shown conclusively that the features of that law that enable it to be evaded were injected contrary to their judgment and their request.

Mr. BURLESON. Well, I do not subscribe to that proposition, Mr. McLaughlin. This law has been claimed by the dairy people ever since its passage. In fact, I have seen two or three campaigns for Congress conducted by Congressmen on the proposition that they stood for the dairy interests in the passage of the Grout bill, the most effective measure ever placed upon the statute books for the suppression of fraud. I have seen that, myself.

Mr. McLAUGHLIN. Has not Mr. Flanders said here, and has he not quoted from statements he made at the time the Grout bill was pending, that he was dissatisfied with certain provisions; that he was afraid of them; that he anticipated the very hurtful results that have actually happened? He was opposed to those provisions, and did his best to keep them from being put in the bill, and they were put in against his wishes.

Mr. BURLESON. Now, Mr. McLaughlin, I have not looked up the record on that point, but I readily accept your statement about it,

or I would accept Mr. Flanders's statement about it, but I have just read to you how thoroughly Mr. Flanders can be discredited as a prophet. [Laughter.] Why, Mr. Flanders—I feel sure he is not the seventh son of a seventh son, and furthermore—I believe you are connected with the state dairyman's office in your State, are you not, Mr. Flanders?

Mr. FLANDERS. I am connected with the agricultural department of the State of New York.

Mr. BURLESON. Well, the Agricultural Department. The administration in your State has recently been driven to the adoption of the original-package proposition in order to prevent the perpetration of fraud, the very thing we are trying to embody in a federal statute at this time. Now, whenever I see the chairman pull out his watch I know what that means, and if there is no other question I will stop. I would be glad to answer any questions. I am not going to be like Mr. Tawney. I would be glad to answer any gentleman who desires any information about my bill, because, as I said in the beginning, if we are in error upon any part of the ground, I am perfectly willing to have it known.

The CHAIRMAN. Mr. Tawney occupied an hour, and I have no disposition to cut you short.

Mr. BURLESON. No; I have practically finished what I had to say. Gentlemen, I thank you for your patient and courteous attention.

Mr. FLANDERS. Mr. Chairman, not to say a word upon the measure, I want the privilege of rising and thanking this committee for their patience and indulgence to those on this side of the question, and to thank the gentlemen who are opposed to us for the courtesy with which they have treated us.

The CHAIRMAN. Have you anything further to present, Mr. McCarty?

Mr. McCARTY. I want to heartily concur in the remarks that have just been made by Mr. Flanders, and to say that we deeply appreciate the treatment you have given us.

The CHAIRMAN. In bringing these hearings to a close, I desire on behalf of the committee to express our appreciation of the pleasant words that have just been spoken by Mr. Flanders and Mr. McCarthy, and in turn to extend the thanks of the committee to them and to the other gentlemen who have voluntarily appeared before us for the information they have presented and for the patience and good humor with which they have responded to the numerous questions asked by members of the committee. No witness who appeared before the committee has been put under oath, and yet I am sure no man who has listened to them would question for a moment that each witness was speaking the truth as he understood the truth to be, just as fully and completely as if he had been under oath. Certainly the interests which have been represented here in these hearings have every reason to be satisfied with the fidelity and fairness and ability of the gentlemen who have represented them.

On behalf of the committee I desire to say that we have given these long and sometimes rather wearisome days to the investigation of this question because we recognized the very great importance of it. We realize the desirability, not to say the necessity, of an amendment to the existing law, because weaknesses in that measure have been pointed out which can not be regarded as anything other than very

material. We recognize also the importance of the interests involved, the dairy interests on the one hand, representing the prosperity and welfare of literally millions of the people of the United States; the oleomargarine interests, representing millions of invested capital and the business in life of vast numbers of people; the consumer, not financially concerned in either the dairy business or the oleomargarine business, but vitally interested in obtaining wholesome food at as cheap a price as the conditions of production make possible; the United States as a Government, concerned in the collection of its revenue with the least expense, with the least fraud, and with the greatest returns. All of these interests are very vital and important, and this committee has recognized them fully in giving these extended hearings upon the measures we have been considering.

I am sure that I can say for this committee that every man on it has listened to the evidence with a sincere desire to get at the truth, with no other thought in his own mind than to help frame a law which, so far as we could see, would prevent fraud without injuring any legitimate industry. As to the object to be attained, I am sure we are agreed on that. As to the methods by which that object is to be reached, naturally members of this committee will disagree as men elsewhere disagree, as strong men who think for themselves are apt to disagree on every great subject.

Remembering the stage of the congressional session, and knowing as I do that the vast amount of work on the hands of every member of this committee, it would be rash to promise a report upon any of these bills at the pending session of Congress; but whether such report can be made now or whether it has to be deferred until a later session, I am sure that the information which has been brought to us and which has been put in permanent form in our record will be of great value, either to us or to our successors, in framing the law that must be and will be framed, and I am sure that this information will be given every consideration by the committee which is charged with the responsibility. I am very much obliged to all of you gentlemen personally for the courtesy you have shown me.

(At 12.30 o'clock p. m. the committee adjourned.)

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